



Living DNA

A review of the application of Deliberative processes and Negotiation to achieving Agreement between network businesses and consumer interests.

Produced by: **Uniting Communities**

Note: Uniting Communities is South Australia's first accredited Carbon Neutral organisation/business.

The work to produce this report was supported by Energy Consumers Australia

August 2017

1. Summary of DNA approach and Rationale

In 2015 UnitingCare Australia released a high level report: “Changing the DNA of network tariff setting in Australia.”¹ The following extract is a summary of the thinking presented.

Existing processes have not always delivered the best outcomes for consumers, notwithstanding considerable improvements. Uniting Communities propose a significant cultural shift from current arrangements for regulatory determination. Under the current model, networks put a price and revenue proposal to the Regulator, and then defend that proposal during the Australian Energy Regulator’s deliberations.

Uniting Communities also observed that often the Australian Energy Regulator’s final regulatory decision was often challenged through the Limited Merits review process, which effectively locked consumer interest out of the process. This ‘propose – defend - litigate’ approach entrenched the network’s power, relegating consumers to a reactive and usually marginal role.

“Instead UnitingCare propose an approach that changes it to one of deliberation, negotiation, and agreement (DNA). This places two innovations at the centre of network regulated decision-making:

1. The use of deliberative democratic techniques to develop fundamental understandings of community views and preferences; and
2. The use of negotiation between networks and consumers as an alternative vehicle for debate and compromise to the current system, by which the regulator has to make a judgement about all network proposals.

Incorporating direct and ongoing consumer focussed engagement in network regulatory processes is the priority for lasting reform, changing the make-up of regulatory processes.”

DNA was a shorthand for two separate processes, deliberation and negotiation which we argued should contribute to agreement, as far as possible, between network businesses and consumer interests. Note that deliberation, negotiation and agreement (DNA) were not intended to be seen as sequential, nor were they implying a particular best approach.

Our key argument for deliberation was for the use of extended processes like citizens juries, where citizens from outside of direct involvement with aspects of energy industry, could be selected to contribute strong consumer perspective to complex issues. It had been argued by some that consumers could only have limited involvement in regular trip processes because of their complexity. Rather deliberation enables ‘rank and file’ consumers to engage with any complex issue, through an appropriately resourced and managed deliberative process. Similarly negotiation was a shorthand for

¹ Now found at: <http://noshockenergy.org.192-81-211-8.ericdekock.com.au/wp-content/uploads/2016/07/DNA-of-network-tariff-setting-June-2015.pdf>

any process that involved discussion or debate between consumer interests and network businesses, we parties participated as equals. Critically the DNA approach was focused on achieving agreement, as far as possible, between consumer interests and network businesses, as opposed to the much more adversarial approach that was frequently observed at the time.

A framework that is widely used to consider consumer engagement is the International Association of Public Participation (IAP2) spectrum for public participation. The following maps the DNA approach against this spectrum. This relationship is further explored in the section 7, considering the question: Are there limits to empowering consumers?

Increasing impact of the decision →

| | | | | | |
|-----------------|---------------|----------------|----------------|------------------------------|------------------|
| <i>IAP2:</i> | Inform | consult | Involve | Collaborate | Empower |
| <i>DNA:</i> | | | | Deliberation and Negotiation | |
| <i>Outcome:</i> | | | | | Agreement |

Note regarding “Negotiated Settlements”

There was quite some interest at the time in “negotiated settlements,” which were described by Bruce Mountain as “negotiated settlement describes voluntary agreement between network service providers (NSPs) and end-users, in respect of the commercial terms for the provision of network services. Such settlements typically determine prices (or aggregate revenues), expenditure allowances and service standards.”¹

While negotiated settlements were regarded as a very useful approach, uniting care regarded them as being somewhat specific to the North American regulatory environment, where they are most prevalent, due to the more legal framework by which energy network regulation occurs. The “DNA approach” was not specifically arguing for introduction of negotiated settlements in Australia, but for applying the sort of principles and approaches to the Australian context, that led to negotiated settlements in North American jurisdictions. Put another way, negotiated settlements are but one of many approaches to processes seeking agreement between consumers and network businesses and applying deliberation and all negotiation approaches. A particular interest was in applying more democratic approaches to energy regulation, with the range of deliberative processes at the forefront.

This paper picks up the original concepts of the ‘DNA approach’ and basically asks whether there have been developments over the last two years whereby movement toward agreement between consumer interests and network businesses has emerged utilising processes of deliberation, negotiation. It is not the intent of the paper to analyse in detail or to assess individual network business performance in consumer engagement. Rather Uniting Communities want this report to be

more like a ‘mirror’ that reflects some of the better practice observed as a consumer organisation engaged as actively as we can in network regulatory processes. By identifying emerging better practice, we expect this to provide a spur to all network businesses to both seek to apply existing better practice, and to improve upon it.

Definitions

Before going any further, outlined below are definitions for some of the key terms used. These are open to change and reflect our understanding of the current use of these terms. They are intended to reflect an understanding of these terms at time of publication (August 2017). In this paper the following terms are used based on the following understanding:

1. Deliberation: a process spanning over at least a couple of weeks where a group of people from a range of consumer perspectives are brought together at least twice and take in to facilitate a process, not from the network business, to consider an important topic of some complexity. Citizen juries are one form of such deliberative processes
2. Negotiated agreement: documentation about the negotiation undertaken to reach areas of agreement, between the network business and relevant stakeholders
3. Agreement: some form of documentation of areas of agreement between accepted consumer interests and network business that is presented to the regulator with lodgement of a regulatory proposal
4. Deliberative forum: a gathering of at least 50 people from a range of consumer perspectives were guided through a process of open questions and discussion for at least four hours. These forums are not as intense or time consuming as a full deliberative process, but provide for more thought / discussion by participants than a focus group.
5. Deep dive. Detailed consideration of a more complex or contentious issue that is part of a regulatory proposal
6. No surprises proposal: regulatory proposal lodged under the rules where no stakeholder, including the Regulator, finds any aspect that they were not expecting. Note that ‘no surprises’ does not mean agreement, it means that where there are points of disagreement between any parties, these have been identified and fully explored
7. Fast track: consideration of a regular trip proposal by the regulator, that takes less time than a standard process. The decision making being fast tracked due to extensive engagement with stakeholders, including consumers, prior to lodgement. We note that fast tracking is currently not possible under the electricity rules in Australia, but is an option for Ofgem, in the UK
8. Front End: this seems to be emerging for a process whereby a network business releases details of their intended regulatory proposal at least four months before lodgement, in order

to engage with stakeholder interests and the Regulator, to lead to a ‘no surprises’ proposal on lodgement

9. Consumer Engagement: “end consumers and network businesses working collaboratively, through inspired action and learning, to create and realize bold visions for their common future”
10. Stakeholder Engagement: all relevant parties and network businesses working collaboratively, through inspired action and learning, to create and realize bold visions for their common future.

Note: definitions 9 and 10 are heavily based on a definition developed by the Canadian Tamarack Centre for Community Engagement² which is recognised as a leader in developing and documenting community engagement practice. They define community engagement as:

People working collaboratively, through inspired action and learning, to create and realize bold visions for their common future.

UnitingCare Australia first introduced the Tamarack Centre’s definition of consumer engagement into Australian energy debates in their initial 2013 discussion paper that was developed as a starting input for the development of a consumer engagement guideline by the AER, as part of their broader “better regulation” process to develop a range of guidelines to apply the newly approved (at the time) rule changes regarding approaches to network regulation.

The same paper also introduced the International Association of Public Participation (IAP2) spectrum for public participation and their definition:

Public participation is a process to make better decisions that incorporate the interests and concerns of all affected stakeholders and meet the needs of the decision-making body.

“Public participation” and “consumer engagement” are regarded as synonyms. Consideration of the application of the IAP2 spectrum by energy networks and the regulator has been useful.

Note on Uniting Communities. For the sake of simplicity, the organisation producing this report is referred to as “Uniting Communities,” throughout this document. However, before 2012, the organisation was known as UnitingCare Wesley Adelaide, and Adelaide Central Mission before 2001. The Energy project was hosted by UnitingCare Australia, though based with Uniting Communities, between 2012 and 2016. Where specific action was undertaken with or through UnitingCare Australia, attribution is made. Everywhere else, “Uniting Communities is used somewhat generically, though it is the same organisation that has undertaken energy advocacy work for over 15 years.

² See Tamarack Centre for Community Engagement at <http://tamarackcommunity.ca/>

2. Negotiation approaches for Utilities, UK examples

This section reflects some aspects of the start of the journey undertaken by uniting communities to identify “DNA” approaches in practice.

The journey started by asking where good examples of agreement seeking with customers were occurring by network businesses. Some of the initial responses which looks the UK where Scottish Water was regularly given as an example of very good practice in it started to hear a little about Western power distribution. The following section therefore provides a summary of approaches taken by these two businesses, before returning to the Australian situation in the next section.

a. Scottish Water

Discussion about good practice in utility network consumer engagement invariably leads to mention of the “Scottish Water approach.”

Scottish Water is owned by the Scottish government whereas in England and Wales water services are run by private companies. Scottish Water, a public corporation, provides water services to the majority of Scotland. It provides drinking water to more than 95% of the population and wastewater services to more than 90% of the Scots. Scottish Water has around 5 million customers and provides drinking water to 2.4 million households and 150,000 business customers in Scotland. Every day, it supplies 1.34 billion litres of drinking water and takes away 847 million litres of waste water from customers’ priorities and treats it before returning it to the natural environment.

Regulatory framework

Scottish Water operates under a regulatory framework established by the *Water Services (Scotland) Act, 2005*. The Water Industry Commission for Scotland sets the cost of the services independently.

The Water Industry Commission of Scotland (the Commission) is the economic regulator of Scottish Water. It was established in 2005 and took over responsibility for economic regulation of water and sewerage services from the former Water Industry Commissioner for Scotland.

The Commission aims to protect the customers by means of monitoring supplier service, prices and service. The legal status of the Commission is a non-departmental public body. This is different from the other utility regulators in the UK; Water Services Regulation Authority OFWAT, for example, is a non-ministerial government department. Section 21 of the *Water Services (Scotland) Act (2005)* requires the Commission to ensure that the water services are provided at the “lowest overall reasonable cost”.

While water industries were being privatised throughout the UK, Scotland decided that it wanted to keep its water in public hands, leading to the regulator initiating discussion with Scottish Water and Consumer interest groups about what an efficient regulatory process would look like. The idea of a Customer Forum was agreed as an important part of a new, consumer centred regulatory process.

Customer Forum

In 2011 the Customer Forum was jointly established by the Commission, Scottish Water and Consumer Focus Scotland.

The Customer Forum has nine members. The chair being a former politician; five members are persons with “strong customer-focussed reputation”, two members represent the retailers, and the remaining member is from the chamber of commerce. Together with Scottish Water, the Customer Forum is tasked with devising a business plan, which would be consistent with the regulatory guidance of the Commission. The guidance notes reflect a range of issues including finance and environmental. One of the salient aspects of the Consumer Forum is that its ability to bring together the representatives of a wide-range of organisations, including licensed retailers, to ensure that both household and business customers get the value for their money. Significantly, the customer forum is charged with seeking written agreement with Scottish Water for their regulatory proposals.

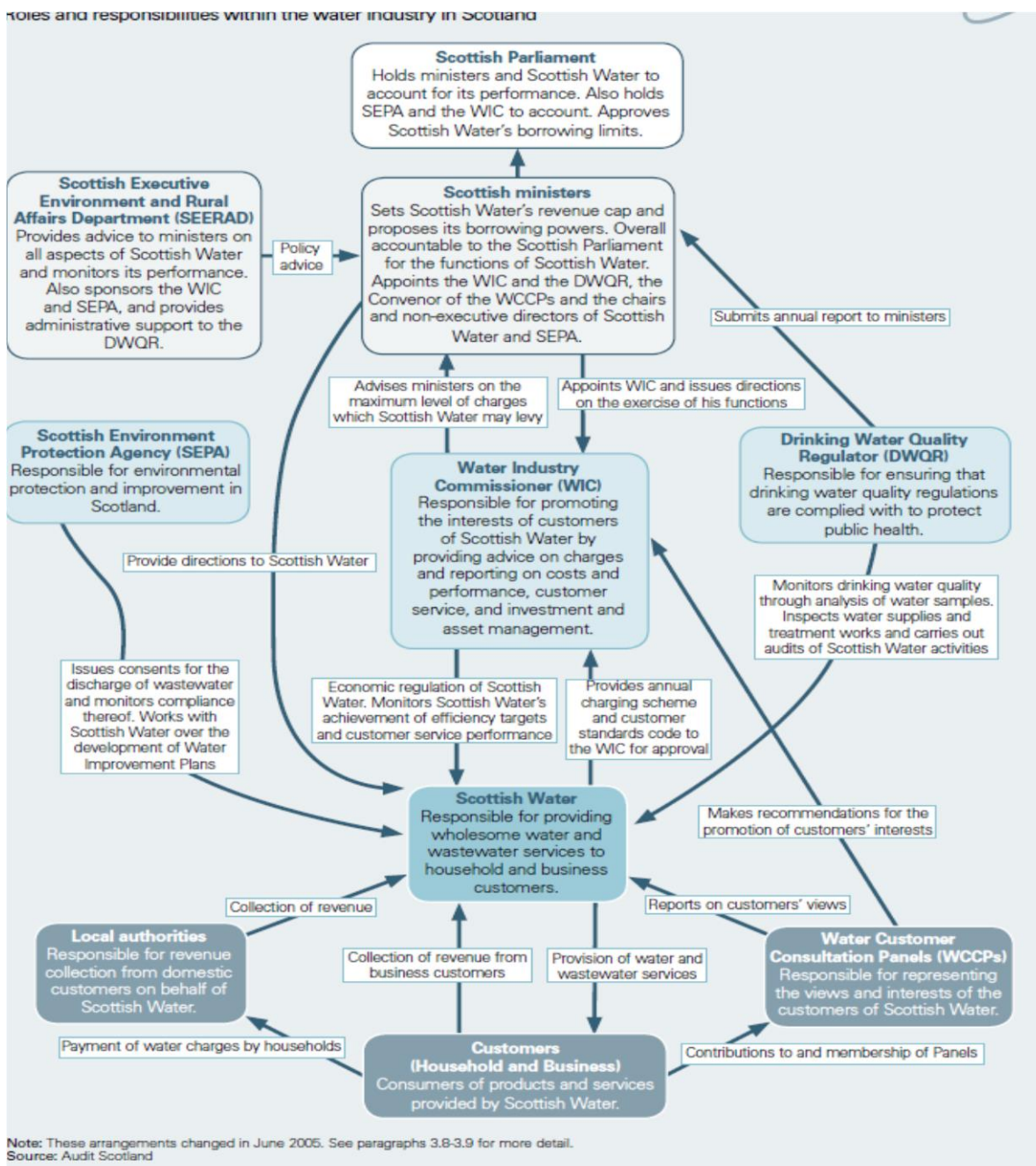
The role of the Consumer Forum is considered to be significant and influential as its Engagement Committee negotiates with Scottish Water on matters related to its business plan as a whole. The *modus operandi* of negotiation between the Forum and Scottish Water is this: providing the service at the most reasonable price and balancing the interests of all parties. The agreement was incentivised and supported while the failure to reach an agreement would be penalised by the Commission. If there is a disagreement, both Forum and Scottish Water should make it public the grounds of their disagreement and the Commission would step in to use its statutory powers, an outcome that no party wanted. Hendry argues that this is the reason for the success of the Forum.

The **Citizens Advice Scotland (CAS)** is a statutory representative of Scottish water consumers and looks after their interests, in addition to energy and postal services. CAS scrutinises policy and practice in the water industry. The consumer engagement strategy of CAS is backed up by four thematic research projects: promoting support for vulnerable consumers, sharing best practice on debt recovery in the non-domestic market, supporting consumer engagement and improving outcomes for communities at risk of floods.

As a registered charity, CAS supports Scotland’s Citizens Advice Bureaux (CAB) by providing expertise on things like management and fundraising, resources such as IT support, tools and training to support

advice giving, and help with running campaigns. According to a report published by the University of Strathclyde, around one in every five people in Scotland have visited a CAB in recent years (2012). As a consumer champion, CAB works with government, regulators and competition authorities, to identify problems early and hold the behaviour of providers of services to account.

The Citizens Advice and Citizens Advice Scotland’s work plan for 2016/17 states that CAS will become accountable to the Scottish Government for delivery of their elements of the Work Plan, following the enactment and devolution of the Scotland. The interesting aspect of CAS, however, is its focus on the non-domestic water consumers, such as small and medium-sized enterprises and sole traders. The following image gives us an outline of the administrative structure of the Scottish Water:



Research

Scottish Water works with its research partner, Accent, to do in-depth research with customers. The research is conducted through an online panel, namely The Consumer Panel. It is an online community of customers who have signed up to offer their thoughts on Scottish Water’s strategy, processes and services. The Consumer Panel engages in conversation with its customers/panellists on issues, such as involving customers and letting them have a say in the type of innovations that Scottish Water implements.

Scottish Water employs innovative approaches to customer research. Some of the innovative techniques that the Scottish Water is using to engage with its customers are (June 2012, p: 5):

- Online Customer Panel
- Online Stated Preference
- Youth Research

Online Customer Panel

Scottish Water has a pool of 50 household customers available to participate in online panel activities. These customers take part in a number of activities over the course of a year so. The customers can build up a good understanding of all the issues Scottish Water deal with, and give a customer’s perspective. A key advantage of this research is panellists are able to contextualise each new issue with all the topics they have already covered, giving Scottish Water a “bigger picture” insight. Scottish Water claims that this is extremely valuable to them (Scottish Water), helping them (Scottish Water) improve their service and inform their strategy.

Online Stated Preference

Online Stated preference research is used to identify which issues customers think Scottish Water should be investing and the level of investment they think should be committed. This research has to be carried out a few years before the investment is made to ensure Asset Strategy team can analyse the customer feedback and develop a business plan. This approach allows Scottish Water to double check customers’ priorities over the next two years and make sure Scottish Water is addressing and investing in the issues which remain important to customers.

Youth Research

As Scottish Water is currently looking at investment until 2020 and informing their strategic direction beyond this means it is important that young people’s views are considered. Scottish Water has commissioned a series of online activities with 16-25 year olds and will be carrying out workshops at

secondary schools to understand young people’s views. Scottish Water will mirror many of the topics covered with our current customers to ensure we have a fully rounded view of what customers are likely to expect in the future.

According to the Scottish Water’s in-house journal, *Involve Scotland* (Jan 2013), participants at the Young group (aged 18 -25) panel expressed that they “knew very little about the role or the extent of the services provided by Scottish Water”. Therefore, Scottish Water realises the significance of “educating the public and raising brand awareness was seen to benefit Scottish Water.” These future customers accepted that both short-term and long-term interruptions occur but specified that they “would like to be kept informed” and advised advanced notifications and progress reports are essential, particularly during long-term interruptions.

Your Views Count - Plans for the future

Involve Scotland (Jan 2013) also states that it has launched major consultation, namely *Your Views Count*, encouraging customer to help shape the future of water services in Scotland between now and 2040. *Your Views Count* identified potential challenges and opportunities such as climate change, population growth and technological advancements that could arise in the next 25 years. The idea behind this consultation is to hear customer’s views on the extent to which Scottish Water should prioritise its issues. Customers are also asked about the future charge levels and the extent to which they would like to see service improvements in return.

One response that is more relevant to the Australian situation (in the context of September 2016 blackout) is this: When asked about the future service, “participants agreed that they prefer Scottish Water to invest in protecting its assets against more frequent events rather than rare events. They also felt that areas with a higher population density and areas which were more prone to the effects of extreme weather should be prioritised when investing.”

Pros and cons – Scottish Water Model

From our research on Scottish Water what we could possibly learn can be outlined as the following:

- Shared understanding of customer priorities
- The involvement of the customers in the future plan and investment
- Engaging with the youth (18 -25), the future customers, groups

Observations

Consumer engagement approaches are of particular interest for Australian utility network regulation. The Scottish Water development of the consumer forum, as a tripartite agreement between regulator

business and leading consumer organisation is of interest and potential application. Key roles of the Customer Forum are to be able to enter into some form of documented agreement with Scottish Water when regular trip proposals are presented to the regulator. The Customer Forum does not represent consumers directly but is regarded as able to represent a broad customer perspective. This is backed up by extensive consumer engagement which is undertaken by bodies who include the Customer Forum as a stakeholder. We are not aware of any bodies in Australia that have a strong role in negotiation and agreement as the Customer Forum, though some network businesses have customer reference or advisory groups which are starting to place some of the basic roles undertaken by the Customer Forum for Scottish Water regulation.

b. Western Power Distribution (UK)

Western Power Distribution (WPD) is distribution business, (referred to in the UK as Distribution Network Operators - DNOs) that serves the eastern West Midlands of England along with Southwest England and Southern Wales. It provides electricity to 7.8 million customers (connection points) which is about 25% of UK customers, making WPD one of the largest of the six UK distribution businesses. As a comparison, UK power networks which services London, has a similar number of customers. In the Australian context, there are aspects of WPD which are similar to Essential Energy, namely large geographic areas to cover (relative to peers) and with very divergent climatic conditions in the distribution region. Both also have significant and relatively isolated communities to support.

The term “well justified” is widely used by WPD as a guide for all of their consumer engagement and is central to the approach taken by the Regulator; Office for Gas and Electricity Markets (Ofgem.) Ofgem has significantly reviewed regulatory processes on the understanding there was a tendency for some network businesses to put investment ahead of need. This was behind a major review of UK energy regulatory processes and gave rise to the new RIIO model:

Revenue = Incentives + Innovation + Outputs.

The RIIO process was much more focused on questions of:

- What is the output?
- What is the gain for customers?”
- Why engage with consumers?

In response to these issues, WPD gave these as the main reasons:

1. It’s the right thing to do; i.e. ensure that business is addressing stakeholder priorities, after all customers pay for everything
2. To justify business plans; i.e. that business plans are “well justified” from abroad consumer perspective

3. Identify improvements to services; including identification of opportunities for co-working
4. It's a key regulatory requirement!

This business has identified four **levels of consumer engagement**:

Level IV: customers who are impacted, in the future by decisions the business makes, their lowest level of stakeholder knowledge and interest

Level III: customers impacted by WPG but it don't have a whole of knowledge about the business

Level II: customers who interact regularly with the business and have a good knowledge of the range of services offered

Level I: stakeholders with whom which the business works closely to build shared knowledge or whose role necessitates a detailed interest (e.g. retailers).

WPD advised they consult with stakeholders on every aspect of their business, except safety, with the argument being that this is non-negotiable. I've put it that some Australian networks, in my opinion, attend to over guild the Lilly, with some expenditure proposals put up in the name of safety, with the safety component fairly tenuous. I was assured that there was enough trust between WPD and stakeholders, this is not seen as an issue.

The how of consumer/stakeholder engagement

The business engaged stakeholders using three main approaches which is now been in place for about 10 years, most predating the major regulatory reviews leading to the RIIO approach. The three key elements of their consumer engagement are:

1. Customer panel
2. Stakeholder workshops
3. Bilateral relationships

Note WPD has also made 1.4 million contacts with Priority Service Register (life support) customers over the past two years, to ensure that their records up-to-date so these customers can be readily contacted at any time. This is a substantial, targeted consumer engagement strategy as well.

Customer Panel

WPD established a customer panel of 34 permanent members who come from a wide range of stakeholder interests including domestic customers, SME customers, local authorities, utilities and vulnerable customer representatives. Customer panel meets four times a year, with venues moving around the region meaning that it is highly unlikely that all 34 members will be in the same room, but teleconferencing is encouraged for members distant from the meeting location. Customer panel is chaired by the Chief Executive Officer with a board member also present.

Panel members are not paid sitting fees but travel expenses associated with attending meetings are covered.

Member only pre-meetings and some closed sessions have been introduced more recently for customer panel members to further build member expertise and to enhance active engagement/challenge of proposals put by the business. Panel commissioned research is also undertaken now and the customer panel “Spotlight report” is now included with the annual business plans commitment report.

The WPD submission to Ofgem and the associated customer panel lists the following amongst 28 outputs for the customer panel over the last 12 months:

- Review of social obligation strategy and creation of £90,000 innovation fund
- Co-hosting a “stronger together” fuel poverty conference
- The new policy was established to make key account managers available as points of contact for major connections customers
- Major review of the PSR - Priority Service Register (life-support customer) policy and a new process to review participants on the register, i.e. to remove out of date records where there has been no successful contact in three years, noting the business seeks to find every customer on the PSR list each year
- New storm bulletins have been created to stakeholders with application before during and after forecast weather events and
- Produced YouTube videos as part of social media activity

Stakeholder workshops

Annual stakeholder workshops are conducted throughout the businesses region, with six workshops in six locations throughout the regions conducted in early 2017, and served 270 participants in these workshops.

The 2017 workshops comprised four sessions being:

1. WPD’s business plan reporting
2. Long term strategic priorities
3. Future networks and environmental sustainability
4. Topic specific “surgeries” providing participants with a choice of
 - a. Connections and distributed generation
 - b. Social obligations
 - c. Emergency resilience.

The methodology described as ‘stakeholder forums’ is similar to the approach being generally referred to as “deliberative forums” in Australia, at the moment, an approach being used by Essential Energy, Endeavour Energy and other businesses too.

3. Australian Electricity Networks – narratives of current developments

This section considers three Australian based network businesses and their recent / current approaches to consumer engagement utilising aspects of DNA approaches.

We consider:

1. ElectraNet, the privately owned electricity transmission business in South Australia
2. Australian gas networks, the privately owned gas distribution business operating in a number of parts of Australia, with headquarters in Adelaide.
3. South Australian power networks, the privately owned electricity distribution business in South Australia.

a. ElectraNet SA (Privately Owned Electricity Transmission Business)

DNA Elements: Negotiation, Informal agreement

Approach summary: Started as “fast track” became “front loaded”

Brief overview of the business

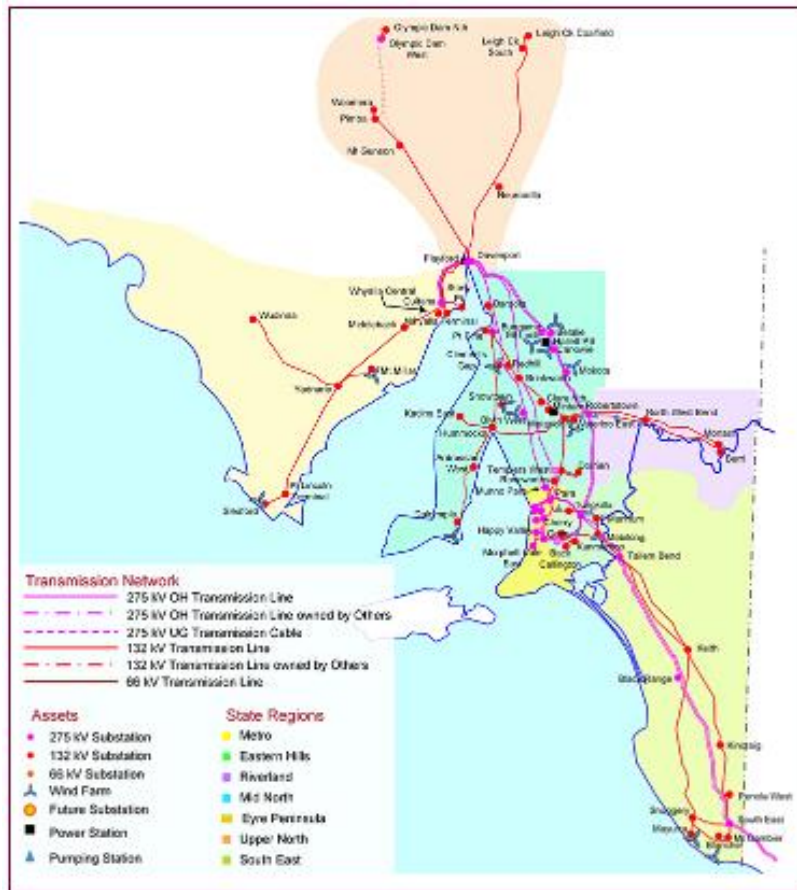
ElectraNet is the privately owned electricity transmission business that services all of the state of South Australia. Network extends from the mining communities of Olympic Dam and Leigh Creek in the north, Wudinna and Sleaford on Eyre Peninsula to the west, the Victorian Border to the east and Port McDonald and the Victorian border to the South. This is a network of a bit over 5,600 kilometres of transmission line operating at 275, 132 and 66 kV. The network includes 91 high-voltage substations with centralised monitoring, control and switching functions, with the management based in Adelaide. The map below shows the reach of the ElectraNet transmission network.

In 1998, the South Australian Premier, Hon John Olsen announced that the single vertically integrated State owned Electricity Trust of South Australia would be privatised in line with recommendations from the Hilmer report, the second state to do so after Victoria. The privatised South Australian market would include competitive wholesale and retail markets with privately owned and operated regulated network businesses for transmission and distribution.

ElectraNet began trading on 31 October 2000 as the South Australian electricity transmission business.

It is currently owned by the following three businesses:

- [State Grid International Development Asia & Australia Holding Company](#)
- the international arm of the State Grid Corporation of China
- [YTL Power Investments Limited](#)
- an investment company of YTL Power International Berhad
- [Hastings Investment Management Pty Ltd](#)
- as trustee for the Hastings Utilities Trust



South Australia has amongst the world’s highest levels of non-synchronous renewable generation. (A synchronous generator is called “synchronous” because the waveform of the generated voltage is synchronized with the rotation of the generator, and is better suited to current network technologies.) So currently ElectraNet is at the forefront of integrating renewable energy into the transition grid, with their particular attention being given to wind generation. South Australia’s extensive rooftop photovoltaic generation does not feed directly into the transmission network. ElectraNet states that it is “the largest connector of wind generation in Australia”, with a “proven history of providing consistently reliable and outstanding network transmission services to our renewable energy customers.”

There is approximately 1,477 MW of large scale wind generation currently installed in South Australia and ElectraNet has connected the majority of this generation over the last decade.

While integrating renewable energy into the grid is a significant challenge for ElectraNet, the other issues they confront are declining or flat demand due to reduced high energy use manufacturing and increased energy efficiency from all consumers, including households.

Describe the deliberation / negotiation approach(es) taken by the business

The starting point for ElectraNet’s regulatory proposal is that it was due to be lodged with the Australian Energy Regulator (AER) at the end of January 2017.

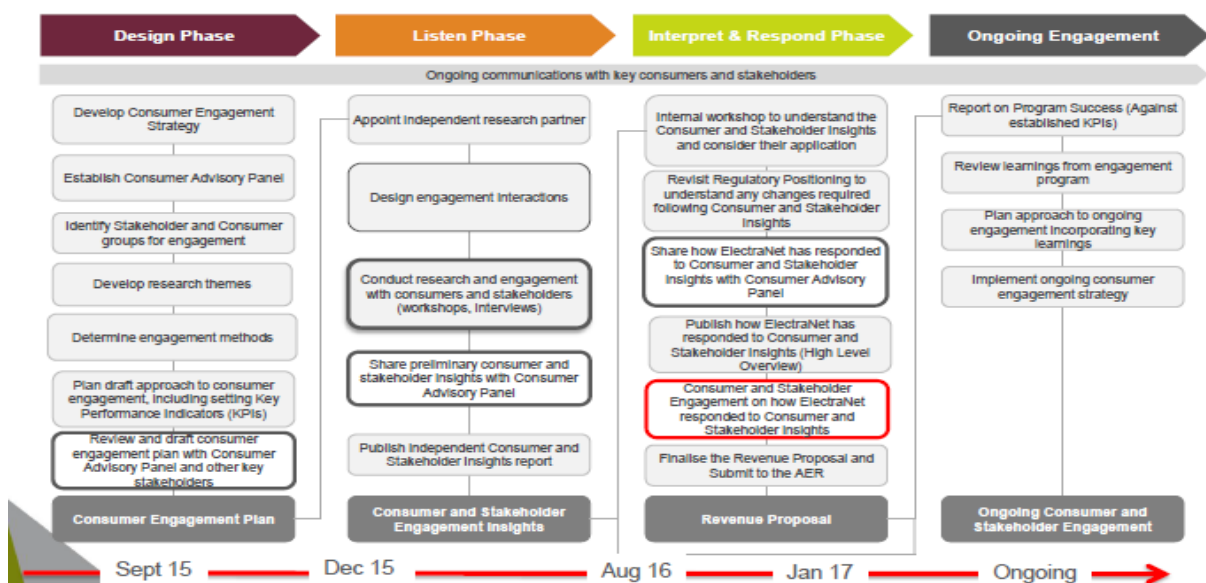
It should also be noted that ElectraNet was one of the last Australian energy network businesses lodging its revenue proposal, under the revised network regulatory rules finalised by the Australian Energy Market Commission, AEMC late 2012. In turn this led to the AER developing a series of “better regulation” guidelines during 2013.

With the January 2017 timeline set, ElectraNet commenced their consumer engagement approach internally in mid-2014 with the Board “signing off” on the approach in December 2014. They then appointed an independent consultant, Ann to assist with their consumer engagement in April 2015.

The following consumer engagement plan (see figure over page) was developed by ElectraNet with Anne, immediately prior to the first consumer advisory panel meeting in August 2015, 17 months before the regulatory proposal was due to be lodged.

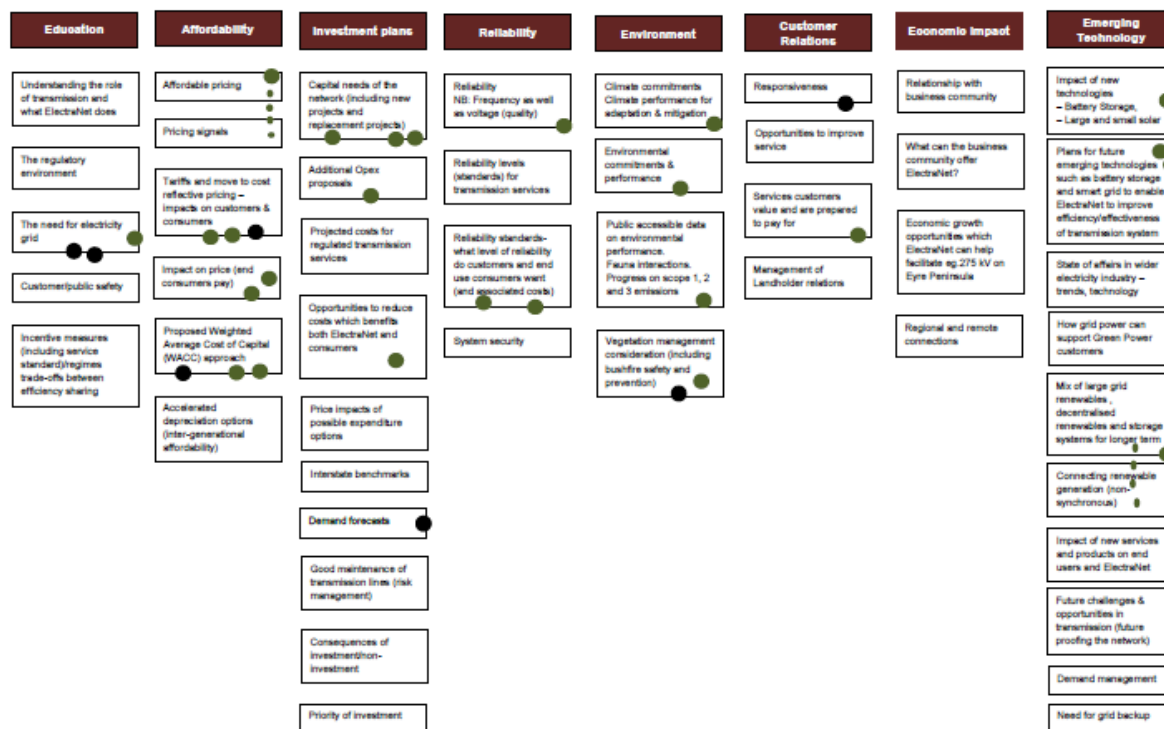
UnitingCare Australia encouraged ElectraNet to apply greater levels of consumer engagement than were practised at the time, arguing that by the time the ElectraNet proposal was lodged, the financial parameters (weighted average cost of capital (WACC), equity beta, risk-free rate, return on equity, return on debt etc) would effectively have been set by previous AER decisions. It was also proposed that since ElectraNet is not planning major capital expenditure, there was unlikely to be many contentious issues between network business and consumer interests. UnitingCare Australia’s “DNA approach to network regulation” was suggested as providing some useful approaches.

ElectraNet Consumer Engagement Plan



The second meeting of the consumer advisory panel occurred in November 2015 where a full range of potential issues for ElectraNet and consumer discussion/agreement was brainstormed and prioritised. This list of issues and relative priorities, indicated by dots, is given below.

What should ElectraNet be talking to Consumers about?



Nov 2015

As participants in this process, Uniting Communities/UnitingCare Australia observed good engagement from the range of consumer representatives in the process itself, which encouraged debate and built on trust particularly as there was no attempt to block or dismiss any issues the consumers raised.

Meanwhile ElectraNet had continued to consider stronger/more transparent consumer engagement approaches, engaging consulting firm Harding Katz to provide advice. Harding Katz produced a discussion paper “an improved approach to network regulation³” for the February 2016 meeting of the consumer advisory panel. The executive summary include the following:

We consider two other options to improve the current framework and address the issues raised by UnitingCare Australia.

One credible approach (Option 1) is to maintain the Status Quo and improve its operation by:

³ Harding Katz, An Improved Approach to Network Regulation, Paper for discussion, 18 February 2016

- Reinvigorating the AER’s ‘first pass assessment’ of the company’s expenditure forecasts. This approach would enable the AER to adopt ‘fast track’ regulation if the forecasts were well-justified; and
- Enhancing the consumer engagement process, ensuring that customer perspectives are fully reflected in the company’s plans.

This approach has merit, but it partly relies on the AER having sufficient time to conduct a ‘first pass assessment’ early in the review process.

To address this issue, an alternative approach (Option 3) is to publish a Preliminary Revenue Proposal 2 months prior to the formal submission date as a Fast Track Approach. While this option may present challenges to ElectraNet and the Consumer Advisory Panel in shortening the time available to finalise the expenditure forecasts, it may better facilitate the fast tracking process. On balance, this approach is recommended as the most achievable option to deliver on the objectives identified by UnitingCare Australia.

Following some debate, ElectraNet and the Consumer Advisory Panel (CAP) supported pursuing a “fast track approach” as suggested by Harding Katz, with key elements of this approach being:

Subject to the views of the relevant parties, this option would proceed as follows:

- A draft Preliminary Revenue Proposal would be developed during the consumer engagement process.
- The Preliminary Revenue Proposal would focus primarily on expenditure forecasts, and would demonstrate compliance with the Rules. It would be informed by extensive consultation, including advice from the CAP.
- The Preliminary Revenue Proposal would be published in, say, early November 2016, at least 2 months in advance of ElectraNet formally submitting its Revenue Proposal.
- It is expected that the expenditure forecasts in the Revenue Proposal would be consistent with those provided in the Preliminary Revenue Proposal (unless unforeseen circumstances arise).
- The AER’s Issues Paper (scheduled for March 2017) would apply its ‘first pass assessment’ and determine whether the expenditure forecasts should be ‘fast tracked’ – which means that they would be subject to limited additional scrutiny.
- Stakeholders would be invited to lodge submissions in response to the Issues Paper.
- The AER may consider early publication of its Draft Decision and Final Decision.

Harding Katz said that the advantages of this approach and some of the rationale for it being referred to as a fast track approach were:

- Reduce resources engaged in the regulatory process;
- Increase certainty in regulatory outcomes, with ‘no surprises’; and
- Faster resolution by delivering an acceptable regulatory outcome sooner.

So the approach is “fast tracked” in the sense that the time taken to finalise the revenue decision by the AER is reduced because the analysis (and we would suggest that at least some of the debate and ideally negotiation) has happened before the “no surprises” (for consumers, other stakeholders and the regulator) proposal is lodged. This also gives scope for the regulator’s ‘first pass’ of the proposal that leads to an issues paper being released publicly, being able to ‘flag’ more areas of agreement than has been the recent energy network regulation experience in Australia.

The Consumer Advisory Panel supported the thrust of the Harding Katz proposal but indicated that two months, particularly over Christmas and the New Year, was not enough time for adequate consideration of the preliminary revenue proposal. It was also thought there would be merit in having the capacity for some deeper engagement between consumers and ElectraNet during the preliminary revenue proposal period. These augmentations were agreed.

ElectraNet wrote to the AER in May 2016 to ask how the AER would respond to the “fast track” approach revolving around the preliminary revenue proposal. The AER agreed to read the preliminary revenue proposal and discuss issues of interest with ElectraNet, on a “without prejudice” basis, meaning that the AER would need to follow the rules once the revenue proposal was lodged. However AER could give advice or make comments on aspects of the preliminary revenue proposal. In doing so AER saw there was potential for a final determination to happen more quickly (than is currently the case) if matters of concern were resolved more quickly by some earlier engagement and informal resolution.

ElectraNet release their preliminary revenue proposal in August 2016, six months before intended lodgement and established a working group, a subgroup to the Consumer Advisory Panel, to undertake ‘deep dive’ considerations of key issues they have identified and ElectraNet.

The issues discussed by the working party were:

- Indicative depreciation forecast
- Exploring the implications of greater interconnection
- Review the regulated asset base profile

- CAPEX, including overview of the forecasting framework and methodology, economic evaluation and risk assessment framework. This discussion was focused by considering four “case studies”, Eyre Peninsula, Templers reactor installation, protection systems replacement and line reinstallation project and
- Business & Operational Information Technology (IT) Capital Programs.

ElectraNet also met with the AER during this period and shared information on the following subjects:

- CAPEX, jointly with all working group members and
- Business & Operational IT Capital Programs.

That Fateful Day

Major storms hit South Australia on 28 September 2016, resulting in a state-wide blackout. This major event involved ElectraNet in both initial and subsequent network repair and a suite of enquiries. As a consequence ElectraNet asked the AER for approval to delay lodging their proposal by two months, which was granted, meaning the final lodgement date would be 28th March 2017.

During 2016, ElectraNet had also advised the Consumer Advisory Panel of two significant projects being considered outside of the intended regulatory proposal, namely an upgrading of the line between Port Lincoln and Whyalla and later in the year the potential for an additional interconnector between the ElectraNet grid and East coast markets. It should be noted there was substantial public, business and political interest in the reliability of the South Australian electricity market during 2016, initially in response to the closure of the northern power station and consequent reduction in ‘base load’ generation capacity in the State. Concerns were also publicly discussed about system reliability (exacerbated by the 28 September 2016 storms) and price rises in excess of 100%.for electricity being flagged for businesses

In January 2017 the Consumer Advisory Panel met and was briefed by ElectraNet on progress of the revenue proposal and variations being proposed as a result of stakeholder engagement through the Preliminary Revenue Proposal (PRP), in the context of the unprecedented weather event from September.

The following is a summary of the information presented to the Consumer Advisory Panel.

Indicative changes from PRP

inside.jpg

| Element | PRP Position | Update |
|--------------|---|--|
| Capex | <ul style="list-style-type: none"> Indicative PRP Capex forecast of \$407m (\$real) | <ul style="list-style-type: none"> Increased capex forecast proposed due to impacts of storm event on 28 September 2016 and other movements (possibly 10% to 20% increase from PRP) |
| Opex | <ul style="list-style-type: none"> Year 3 (2015-16) base year trend approach, resulting in indicative forecast Opex of \$434m (\$real) | <ul style="list-style-type: none"> No material change |
| WACC | <ul style="list-style-type: none"> Applied default AER WACC guidelines and subsequent appeal outcomes where applicable – indicative rate based on current market data of 5.75% | <ul style="list-style-type: none"> No material change in approach Updated indicative WACC estimate based on latest market data is about 6.0% Approach will be set out in letter to AER by end January 2017 |
| Inflation | <ul style="list-style-type: none"> CPI of 2% reflecting the bottom of the RBA's inflation target range of 2-3% | <ul style="list-style-type: none"> Market based inflation forecast has increased to about 2% based on latest market data |
| Depreciation | <ul style="list-style-type: none"> Applied prevailing AER approaches, including year by year tracking method and asset replacement write downs | <ul style="list-style-type: none"> No change in approach but proposing to adopt shorter asset life for new telco assets (from 15 years to 10 years) to better reflect their in-service life, and a new asset class for synchronous condensers |

There was also some feedback suggesting a higher inflation rate, for application in the Post Tax Revenue Model.

Outcomes/responses to approach (where practical)

ElectraNet lodged a “no surprises” submission in March 2017. It is likely that the attitudes of the AER’s Consumer Challenge Panel subgroup that considers the ElectraNet proposal, will be significant in how the AER Board regards the ElectraNet process and any subsequent ‘fast track’ benefits that accrue to ElectraNet, consumers and the AER itself.

(Note: the language of “fast track” was used to describe the intended approach by ElectraNet early in developing their regulatory proposal. This language changed towards the end of the process where the emphasis was more on the Preliminary Revenue Proposal (PRP). Uniting Communities started using the term “early reveal” to more accurately reflect the process, as it seems that the emerging description of the sort of process undertaken by ElectraNet is now “front loaded” with an understanding that “fast track” is not an option under Australian energy market rules, rather it is a term that has traction in the United Kingdom.)

We recognise that the following outcomes have been achieved by the ElectraNet approach, up to the point of lodgement of their regulatory proposal:

- An active consumer engagement strategy was planned and initiated by ElectraNet at least 18 months before the regulatory proposal was due to be lodged
- ElectraNet followed through on their initial commitments to establish a reference group to which they would carefully listen and to other consumer engagement strategies
- ElectraNet went to the effort of engaging a consulting firm (Harding Katz) to specifically advise on consumer engagement strategies. The recommendations from this firm were implemented, specifically the ‘fast track’ approach which required ElectraNet to release their preliminary revenue proposal six months before is to be lodged, creating extra work pressure earlier in their regulatory proposal development
- ElectraNet adjusted their processes in response to advisory panel advice, including the establishment of a working group to ‘deep dive’ into some of the more detailed aspects of the revenue proposal
- When circumstances beyond the control ElectraNet eventuated (28 September storms) the level of goodwill generated by ElectraNet with both stakeholders and the regulator meant the request for an extension of time was seen as reasonable, and accepted, despite such requests being rare
- ElectraNet’s integrity and reputation has remained intact throughout what has been difficult and politicised public debate. The lack of negative comment or commentary has been quite remarkable. Uniting Communities suggests that this is likely to be related to the trust and goodwill generated through an extended consumer and stakeholder engagement process. ElectraNet stuck with the “engagement timetable,” the January 2017 version of which is summarised in the table below:

Engagement Timetable – Key Milestones

| Milestone | Timing |
|---|--------------------------|
| AER agreement to early engagement approach | 2 May 2016 |
| CAP Meeting # 5 – Working Group formed to review Revenue Proposal in depth | 24 May 2016 |
| CAP Working Group Meetings 1 & 2 | July & August 2016 |
| Release of: <ul style="list-style-type: none"> • Preliminary Revenue Proposal • Customer Insights Report • Network Vision | 6 September 2016 |
| PRP Public Forum | 21 September 2016 |
| AER & CAP Technical Workshops 1, 2, 3 | September & October 2016 |
| Comments due on Preliminary Revenue Proposal | 11 October 2016 |
| CAP Meeting # 6 – Outcomes of early engagement process | 31 October 2016 |
| Telephone survey conducted | November 2016 |
| CAP Meeting # 7 – Latest stakeholder feedback | 17 January 2017 |
| Finalisation & lodgement of Revenue Proposal | By 28 March 2017 |

What worked and what didn't?

What worked?

We suggest that major reasons for the approach working include:

- The approach started early, at least a year and a half before the regulatory proposal was due to be lodged
- Senior ElectraNet management was involved with planning and developing the approach from early on, and were open to suggestions from consumer interests which they followed up with the consultants Harding Katz to consider the options and take ownership of the approach used
- The consultant appointed by Electra net, very early on, is highly skilled with many years of experience working with both community organisations and businesses, and was an active enabler throughout the entire process by:
 - Encouraging Electra net
 - Briefing inducting and supporting consumer participants and
 - Providing clear communication between all parties at all times
- Active encouragement of a strong consumer engagement approach from some customers including Uniting Care Australia and
- Helpful timing, in that ElectraNet was one of the last network businesses to submit their revenue proposal, under the 'new' rules (AEMC issued 2012) and guidelines (AER 2013), so they had experience of peers to draw upon.

What didn't work?

Although there was no aspect of the project that we would regard as a failure, some of the minor irritants for the project included:

- The challenge of recruiting an engaged, interested and diverse group of consumer interests and maintaining their attention over an extended period of time, with so many competing interests for all parties
- The capacity to bring key people together at crucial stages in discussion during the project. For example, there was no single occasion when all working party members were in the same room at the same time and
- Uncertainties generated by limited merits review appeals that remained 'live' for other network businesses during the time that ElectraNet was developing their proposal.

What is uncertain?

The very high level of public and political interest in South Australia's high electricity prices during the time that the regulatory process was developed, coupled with the 'game-changing' events such as the storm of 28 September, meant that ElectraNet was caught up in various proposed solutions that were being hotly debated right up until the point of lodgement. The most significant of these uncertainties was a range of significant transmission line upgrades, including a second interconnector and the upgrading of Eyre Peninsula transmission lines. Consideration of these proposals largely happened outside of the regulatory process, though there are significant potential implications for consumers.

However, we observed that ElectraNet kept the consumer reference group (Consumer Advisory Panel) fully informed on the current state of play of various actual and potential regulatory impact proposals that would be subject to the separate test for Regulatory Impact Test for Transmission (RiT-T) process. The optimal process for considering ‘contingent projects’ in parallel to developing a regulatory proposal is unclear to us, though any capex (capital expenditure) spending considerations by networks need to be conducted in a transparent manner with strong consumer engagement.

Observation

In considering the extent to which the ElectraNet “front loaded” process reflects the ideals we first promoted through the “DNA approach to network regulation,” Uniting Communities considers that ElectraNet has engaged meaningfully and frequently with consumer interests. In pursuing such an engagement process, ElectraNet has played a significant role in pioneering “front loaded” processes for regulatory proposal development in Australia. As such they have demonstrated an appropriate application of negotiation processes with consumers and started moving towards the potential for agreements to be reached between network and consumer interests.

b. Australian Gas Networks (AGN) (Private Owned Gas Distribution)

Brief overview of the Business

Australian Gas Networks describes their business as follows:

“AGN⁴ is one of Australia's largest natural gas distribution companies. AGN own approximately 25,000 kilometers of natural gas distribution networks and 1,100 kilometers of natural gas pipelines, serving over 1.2 million consumers in South Australia, Victoria, Queensland, New South Wales and the Northern Territory.

AGN generates revenue by charging retailers to transport natural gas throughout its networks.

AGN states their vision “is to achieve our performance targets and become the leading natural gas distributor in Australia.” AGN’s three core elements to their vision are:

1. Delivering for customers, with a focus on public safety, reliability and customer service
2. Being a good employer, with emphasis on safety, employee engagement and skills development and
3. Being sustainably cost-efficient, specifically working within industry benchmarks and delivering profitable growth.”

⁴ <https://www.australiangasnetworks.com.au/our-business/about-us>

AGN have developed their vision through the application of 4 core values of:

1. Trust: we act with integrity, we do the right thing, we are safe guardians of essential Australian infrastructure, we act in a safe and professional manner
2. Respect: we treat our customers and our colleagues the way we would want to be treated and we embrace and respect diversity
3. one team: we communicate well and support each other and are united behind our shared vision for Australian gas networks and
4. Performance: we are accountable to our customers and stakeholders, we are transparent on our performance and we deliver results. We continuously improve by bringing fresh ideas and constructive challenge.

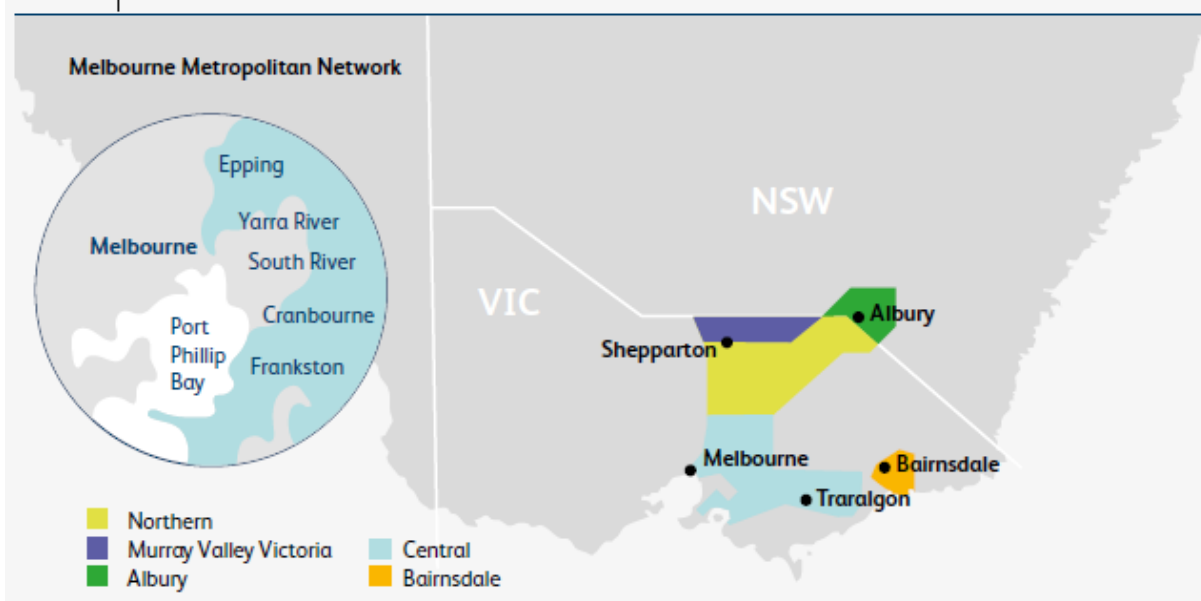
Uniting Communities is a member of both the South Australian and Victoria/Albury reference groups for AGN. Uniting Communities have observed a significant development of consumer engagement approaches from the South Australian access arrangement proposals lodged in 2016 in Victoria and Albury access arrangement lodged in 2017.

Uniting Communities have been an active participant in both reference groups and have made written submissions to AGN’s discussion paper about incentive scheme proposals, as well as submitting to the Australian Energy Regulator’s (AER’s) request for submissions in response to buy South Australian and Victoria/Albury regulatory proposals.

In this paper the focus is on the consumer engagement approaches undertaken by AGN for the Victoria/Albury access arrangement proposal, as the most recent, and one we believe reflects improvement on the earlier approach.

The relevant AGN districts for Victoria and Albury are:

Figure 1: Our regulated networks in Victoria and New South Wales



Describe the deliberation / negotiation approach(es) taken by the business

AGN described their consultation process as having four elements:

1. Strategy phase from November 2015 to early 2016. This phase included workshops with relevant stakeholders as well as with reference groups. Key deliverable: Victoria and Albury engagement strategy
2. Research phase from March 2016 to June 2016. This phase involved designing engagement activities with key stakeholders, preparing clear information including fact sheets to assist stakeholders, conducting research with expert advice, conducting focused engagement activities on specific emerging aspects of the access arrangement proposal. Key deliverable: Victorian and Albury customer insights report
3. Implementation from July 2016 to November 2017. This phase involving internal workshops to understand stakeholder and customer comment, business modelling reporting and further customer in stakeholder engagement. Key deliverable: Victorian and Albury draft plan, Deloitte stakeholder and customer feedback report, final access arrangement lodged
4. Ongoing engagement from 2018 including reporting on outcomes and effectiveness of previous engagement activities, considering lessons learned from engagement, maintained engagement with stakeholders ongoing engagement with reference groups. Key deliverable: ongoing stakeholder engagement strategy.

This outline was presented to the AGN customer reference group, with further detail as follows:

Stakeholder Engagement | Our Approach...Building on South Australia

Ongoing Engagement with Stakeholders

| Strategy | Research | Implementation | Ongoing Engagement |
|---|--|--|--|
| Defines: -Who we will engage with. -How we will engage. -The key issues that will be subject to engagement. -How we will track the success of our program. This includes: -Workshops with relevant stakeholders. -Workshops with our Reference Groups. | Implementation of the engagement strategy. This includes: -Designing engagement activities. -Preparing clear information to assist stakeholders. -Conducting research. -Conducting dedicated engagement activities. -Capturing and reporting on customer insights. | Insights from the Research Phase considered in the Draft and Final Plans. This includes: -Internal workshops to understand insights. -Incorporation into Plans. -Reporting in a clear and transparent manner how insights are incorporated. -Further stakeholder and customer engagement. | This includes: -Reporting on the effectiveness of previous engagement. -Incorporating lessons learnt into future programs. -Ongoing engagement with stakeholders. |
| Key deliverables: Victoria and Albury Engagement Strategy | Key deliverables: Deloitte Customer Insights Report Findings Report on Incentive Mechanisms | Key deliverables: Victoria and Albury Draft Plan Deloitte Stakeholder and Customer Feedback Report Victoria and Albury Final Plan | Key deliverables: Ongoing Stakeholder Engagement Strategy |

At the February 2017 consumer reference group, the Chief Executive Officer reported to the consumer reference group feedback from reference groups on AGN’s process, which he reported as “encouraging with 13/19 indicators receiving an average rating of 4.5 out of five.” This observation was quantified with the following additional information:

“Feedback includes that reference group members believe that our engagement has been transparent:

- We made the right people available at meetings (returning an average rating of 4.88)
- The location of meetings was convenient (4.75)
- We engaged effectively to inform our draft and final plans
- Our plans for the next AA period is consistent with feedback received from stakeholders (4.63) and
- Improvement opportunities focused on distributing meeting materials earlier.”

Uniting Communities also observe that one of the aspects of the access arrangement that received considerable attention was the notion of establishing an incentive mechanism for gas network businesses in Australia. An issues paper was developed by AGN and released for comment from interested stakeholders, with a three-hour Incentive Mechanisms Forum held in July 2016.

In considering the application of what we Uniting Communities have termed the DNA approach, AGN has effectively applied a ‘frontloaded’ approach to the development of their access arrangement proposal by first engaging with consumers at a number of levels and bringing this together in a draft proposal, which was widely circulated and available for comment and discussion prior to lodgement.

The DNA approach has identified an effective way for negotiation with consumer and broad stakeholder interests and most importantly been followed through by AGN in presenting their final proposal to the Regulator. AGN’s proposal demonstrated very clearly how feedback from the draft proposal was incorporated into the businesses’ thinking for the final proposal. Uniting Communities noted there was not a formal process to identify a form of agreement, but there was tacit support for what was lodged from a significant range of stakeholders including consumer interests. This observation was subsequently reflected by the Regulator in its assessment of the proposal.

A second process which enabled and encouraged negotiation, was the parallel process to consider the development of incentive schemes for application across gas network businesses in Australia. By preparing a written statement outlining the concepts and then seeking bilateral meetings for feedback and discussion followed up by a forum, there was a significant amount of shared exploration of the proposals.

A third observation is the suggestion that AGN has thought seriously about how to measure consumer engagement and started to apply this. Uniting Communities is not aware of this level of systematic reporting being considered elsewhere in Australia. While not explicitly a process of direct deliberation, negotiation or agreement, Uniting Communities suggest it is an important step in creating an environment of trust that will pay dividends in reaching agreement on key projects, in the foreseeable future.

Outcomes / responses to approach

In considering the AGN access arrangement proposal and their consumer engagement, the Australian Energy Regulator said:

AGN undertook its own engagement process in the development of its proposal, notably including public consultation on a 'draft plan' some six months prior to submission: a first for engagement on a regulatory proposal submitted to the AER. Further consultation material used by AGN was provided to us as supporting documents to AGN's proposal, together with an overview of its engagement strategy and outcomes. In addition to consultation on its proposal, AGN also consulted jointly with other Victorian gas distributors on incentive arrangements for gas distributors to inform its proposals for the CESS and NIS.

The regulator also reflected on submissions *“which were overwhelmingly in support of the proposal AGN ultimately submitted—that these efforts were both valued and productive.*

The Regulator quoted from Uniting Communities submission, using the following quote:

...one of the first regulatory proposals to seriously demonstrate consumer focussed engagement that has been subsequently implemented into the final proposal... a 'no shocks' regulatory proposal, an approach and attitude that we hope sets the approach for future network business regulatory proposals.

The AER’s Consumer Challenge Panel was also very supportive of the approach taken by AGN study amongst other things that the proposal was:

“...a comprehensive process that ensured all stakeholders were clear around the principles used by AGN in making its Access Arrangement decisions. It was highly informative and answered many queries ...regarding the economic basis for its regulatory proposal.

...a robust stakeholder engagement program which demonstrates [AGN's] commitment to making genuine efforts to effectively engage with customers and to increase stakeholder transparency in the development of access arrangement proposals.⁵AGN [and AusNet] appear to have consulted extensively with industry peers and consumers on the design of the proposed incentive mechanisms. In particular they have sought feedback on the proposed CESS to ensure

⁵ Energy Networks Australia - Australian Gas Networks (Victoria and Albury) Access Arrangement Proposal 2018-22 – Energy Networks Australia’s comments - 3 March 2017, p. 2.

that it is fit for purpose, delivers benefits to customers and would not compromise the quality of services.”

Submissions also highlighted the benefits that AGN's engagement delivered for the business, including that comments in submissions were unlikely to come as a shock to them, again quoting from the Uniting Communities submission:

“AGN's engagement provided stakeholders with a clear sense "that [AGN] knows who they are and where they are heading", which was not only instructive but built confidence that AGN's proposal was much more genuine than ambit.”

What worked and what didn't?

The most significant aspects of the approach taken by AGN were:

1. The decision to release a “draft plan” some months prior to lodging the access arrangement proposal, with consumer interests and stakeholders actively encouraged to discuss, debate and respond. The stated objective from AGN being that they did not want any stakeholder, including the regulator, to be surprised by any aspect of their access arrangement once was submitted
2. A parallel process dedicated to one aspect of the access arrangement, namely the incentive scheme proposal which was the subject of a separate discussion paper workshops and a forum. We are also aware that the idea had been floated in other industry forums prior to the more specific process as part of the access arrangement development
3. The clarity of vision and values statements from the business. While vision and values statements are common amongst businesses community organisations and government departments, we observe that AGN makes and continues to make significant effort to apply the vision and values to all aspects of their business. Uniting Communities stated in our response to the access arrangement proposal that we consider that AGN presented their access arrangement with very clear attention being given to the vision and values throughout the proposal.
4. Measurement of engagement satisfaction. We suggest that AGN is the first network business in Australia to specifically seek to identify metrics for consumer engagement, as well as broader satisfaction with the business. We are aware that there is some overseas experience of energy network businesses monitoring and reporting on aspects of consumer engagement. We consider the application of initial engagement satisfaction measures is an important development by AGN and a booster ongoing accountability to consumers and stakeholders.

c. South Australian Power Networks - SAPN – (Deliberative)

Brief overview of the business

SA Power Networks operates a distribution network that stretches across South Australia, comprising thousands of kilometers of power line and hundreds of substations.

They state that they “concentrate our efforts on achieving regulated requirements for high levels of service, reliability, safety and efficiency.

The key services we provide to the South Australian community include:

- Delivering electricity from the high voltage network through poles and wires to an individual property or business
- Installing, maintaining and reading meters
- Providing an emergency response in the event of blackouts
- Repairing street lighting.

SA Power Networks is 51 percent owned by Cheng Kong Infrastructure Holdings Ltd and Power Assets Holdings which form part of the Cheung Kong Group of companies. The remaining 49 percent is owned by Spark Infrastructure which began trading on the ASX in December 2005.

SAPN state on their website that “as a business, SA Power Networks is committed to working with our customers and stakeholders to understand their needs and deliver services they value.

Our relationship with our stakeholders and willingness to listen and respond to their needs is fundamental to achieving balanced outcomes for customers, the community, our employees and owners.

While engaging with our customers and stakeholders occurs on a daily basis on a variety of issues, we also undertake a range of structured engagement activities and programs.”

Some of the programs we are currently engaging with customers and stakeholders on are:

- The 2020-25 regulatory proposal
- Vegetation management around power lines

In 2016, “we developed our Stakeholder Engagement Strategy 2016-20 which reflects our commitment to continue to work with our stakeholders, build on past engagement experiences and continue to embed effective stakeholder engagement practices across the business. While we recognise that our engagement is an evolving process and that our approach will continue to mature through experience, the Strategy reflects our intent to implement a more strategic and tailored approach to how we engage with our stakeholders.

A key outcome of the Stakeholder Engagement Strategy was the reconstitution of our Customer Consultative Panel (CCP), and the establishment of five focused Reference Groups.”

Describe the deliberation/negotiation approach(es) taken by the business

Uniting Communities is particularly interested in the approach that SAPN have taken in applying formal deliberative processes to complex issues where consumer views are important. SAPN have reported on two deliberative processes they have completed during 2015-16, which provides a good overview of the process.

SA Power Networks believes that customer impacts should be considered alongside economic impacts in the setting of electricity network tariffs. The mechanism we chose for assessing these customer impacts was through the development and application of a set of Customer Impact Principles, using a facilitated deliberative process.

Deliberative engagement, which is not currently widely used in the utility sector, involves customers and stakeholders actively engaging in a process aimed at collaboratively developing shared solutions or outcomes.

Note that deliberation is understood to be any process of public engagement and participation in decision making that focuses on gathering representative views from the community and encouraging their reflection and debate, leading to recommendations for action. Examples of deliberative processes¹⁴ include Citizen Juries, Community Budgeting and deliberative forums. Through more robust representation of public preferences deliberative processes encourage greater public confidence in decision making, by gathering more representative views on important and often complex issues.

Stakeholders present to the people involved in a deliberative process, but are not a part of the actual deliberation, just as a jury in a trial hears all the evidence presented, but deliberates and decides on its own. There needs to be adequate time allowed for effective deliberation, as this often leads to shared understanding amongst participants.

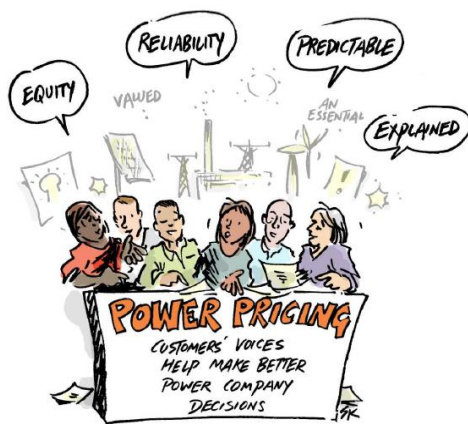
Tariff design and implementation is a complex issue and the use of a deliberative process enabled comparatively quick understanding of the issues and the development of an agreed set of Customer Impact Principles. Participants in the process gained a shared understanding of the trade-offs involved in different approaches to distributing costs between various types of consumers and provided a way forward that is balanced and reasonable.

Furthermore, the process demonstrated to SA Power Networks the value of adopting new engagement approaches, by enlisting our stakeholders and customers to help develop preferred options and solve complex problems.

Customer Impact Principles

The first deliberative process was to develop a set of draft Customer Impact Principles was developed by SA Power Networks as part of our initial Tariff Structure Statement (TSS) to help guide the numerous decisions involved in tariff reform. These principles aimed to build on the Pricing Principles contained in the NER and to provide guidance on how customer impacts should be considered in an objective way.

An Electricity Advisory Panel was convened in December 2015 and was asked to participate in a deliberative process facilitated by democracyCo. The Panel was recruited from a customer database and randomly selected to ensure that the final 20 customers broadly represented the South Australian population in terms of gender, age group, quarterly electricity bill, location and employment. The Panel also included 12 key representative stakeholders from the business sector, consumer advocacy groups, non-government organisations representing vulnerable communities, State Government representatives and primary producers. Many of these stakeholders had already been working with SA Power Networks on the development of our initial TSS and so had a good understanding of the TSS process and SA Power Networks.



When we make decisions about network charges, what are the impacts on customers that we need to consider?

Over the course of a series of deliberative workshops held in February 2016, the Panel was posed the following question:

“when we make decisions about network charges, what are the impacts on customers we need to consider?”

The Panel developed three main Principles of ‘Simplicity’, ‘Fairness and equity’ and ‘Empower the consumer’ to sit alongside a fourth, ‘Compliance’. These are represented in the diagram below. The Panel agreed that there is potential for conflicts

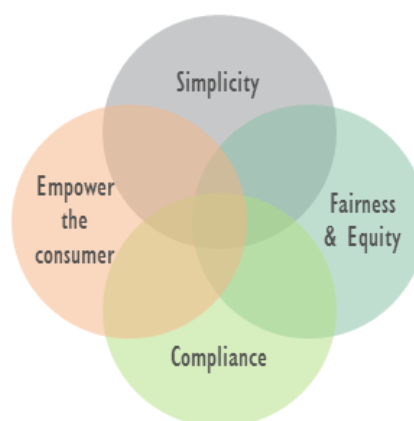
between the three Principles but that there is a ‘sweet spot’ represented by the middle of the diagram where all four Principles overlap, and this should be the aim when making decisions.

The Panel met together over two evenings to develop the Customer Impact Principles. The stakeholders and community representatives also met separately beforehand to enable the community to spend time building an understanding of the system and the proposed process.

The Electricity Advisory Panel was posed the question: when we make decisions about network charges, what are the impacts on customers we need to consider? By discussing and deliberating on this question over the two evenings, the Panel was able to develop the Customer Impact Principles outlined in this report.

Principle 1: Empower the consumer

This Principle aims to ensure SA Power Networks makes decisions about network tariff setting that empower the consumer. Understanding, through the provision of information, is central to making tariff reform work. This is based on the premise that the consumer should be allowed to see, understand and manage their own behaviour.



Principle 2: Fairness and equity

Fairness requires SA Power Networks to recognise the diversity of consumers and that some households and some businesses are particularly vulnerable to sudden changes. Education, sufficient lead-in times and the provision of complementary measures are seen as playing key roles in the delivery of this principle.

Principle 3: Simplicity (to inform decision making)

Tariffs have to be understandable if people are going to respond to them. To be understandable, the Panel believed tariffs need to be simple and transparent. For consumers, this is important because if tariffs are understood, people will be able to make better decisions about their behaviour (usage) and their investments (for home or business).

PV-FiT (Photo-voltaic Feed in Tariff)

A second deliberative process with the Electricity Advisory Panel was held in August 2016 to determine the best way to allocate costs of the State Government’s PV-FiT schemes and to test options against the Customer Impact Principles developed in February 2016. The Panel was asked to consider the following question:

Between now and 2028, SA Power Networks needs to collect \$90m each year from customers and then pass this onto eligible solar customers. How do the Customer Impact Principles help us determine who pays what?

The Panel considered three scenarios against the cost recovery approach which is being used in the 2016/17 tariffs.

- *Scenario 1: Recovery as a fixed \$ amount per customer. This would need to be around \$102.46 per customer. This would result in 99% of revenue being recovered from those residential and small business customers eligible for the scheme.*

- Scenario 2: Recovery based on total electricity consumption (c/kWh).
- Scenario 3: Recovery from residential customers only – either as a fixed charge per customer (approx. \$116 per customer), as a fixed % of DUoS (approximately 24% of this component) or based on total consumption (approx. 2.3c/kWh).

The session provided an opportunity to interrogate the issue and test the Principles. The Panel could not see a good case for change from the status quo which is a PV-FiT recovery ratio of around 63% to residential and 37% to business, and after much deliberation concluded that our current approach best met the Principles.

The Panel considered it important that people who benefit financially from having solar panels should be within the main group of people who pay for that incentive scheme. The Panel also considered that a ratio of around 20% fixed price to 80% variable price would be appropriate for residential customers. This is of a similar ratio to the existing 2016/17 arrangement.

Throughout the deliberative session, the Panel gained a number of insights into practical application of the Customer Impact Principles, as follows:

- The Principles were sound, robust and excellent tests for this type of problem;
- It was useful to not just ‘dive’ into the problem but to properly consider the Principles first;
- It is important to look at the definition of each Principle – not just the title. It was the detail behind each Principle that helped the Panel understand the intent of the Principle; and
- The Principles work and promote consistency: when the Panel was split into two groups the same answers were developed through using the same Principles.

Copies of the Customer Impact Principles and PV-FiT reports can be found on SA Power Networks’ Talking Power website at www.talkingpower.com.au.

What worked and what didn’t?

From the point of view of an exploration of effective consumer engagement approaches, the SAPN decision to apply an extended deliberative process to two complex and contentious issues in the case of solar PV FiT charges, is to be commended. A citizens’ jury type process was used where a group of customers were recruited, who were reflective of the range of interests in the SAPN customer base.

Feedback from participants was that both deliberative processes were informative and they considered they were able to understand the issues at play and to effectively contribute to the final decisions. Some participants were really surprised that agreement was reached across a broad range of interests, but accepted these and were satisfied with the conclusions reached.

Similarly feedback from SAPN senior staff, who closely observed the process, was of some surprise at the extent of agreement across a wide range of participants. There was also surprise at the extent to which people who had not been an active part of protracted energy debates, were able to understand the key issues and to provide direct and meaningful advice to SAPN. Such advice has significantly assisted SAPN in developing policy and program positions as well as regulatory proposals.

4. Other Australian Network Experiences

This section provides a couple of further examples of network businesses, both government owned, that are also being regarded as undertaking good-quality consumer engagement in the lead up to pending regulatory proposal lodgement.

d. TasNetworks: A Summary

Tasmanian Networks Pty Ltd, TasNetworks, is a Tasmanian state-owned corporation that supplies power from the generation source to homes and businesses through a network of transmission towers, substations and power lines. It commenced operations on 1 July 2014 by merging Tasmania’s electricity distribution and transmission networks into one network business - a merger between Aurora Energy’s distribution network (the poles and wires) and Transend Networks (the big towers and lines). It is estimated that the cost of TasNetworks’ total assets would be over \$3 billion (TasNetworks: Annual Distribution Pricing Proposal, May 2017).

TasNetworks owns, operates and maintains 3564 circuit kilometres of transmission lines and underground cables, 49 transmission substations and six switching stations. It also owns, operates and maintains telecommunication network infrastructure to enable safe and efficient operation of the electricity system. It looks after the electricity transmission, electricity distribution, and telecommunication services.

Briefly speaking, TasNetworks serves to a small but highly dispersed population with comparatively low levels of customer and energy density. Over 75 per cent of TasNetworks’ distribution network serves small towns and rural communities, meaning TasNetworks will have to employ more assets than a simple comparison of customer numbers would suggest.

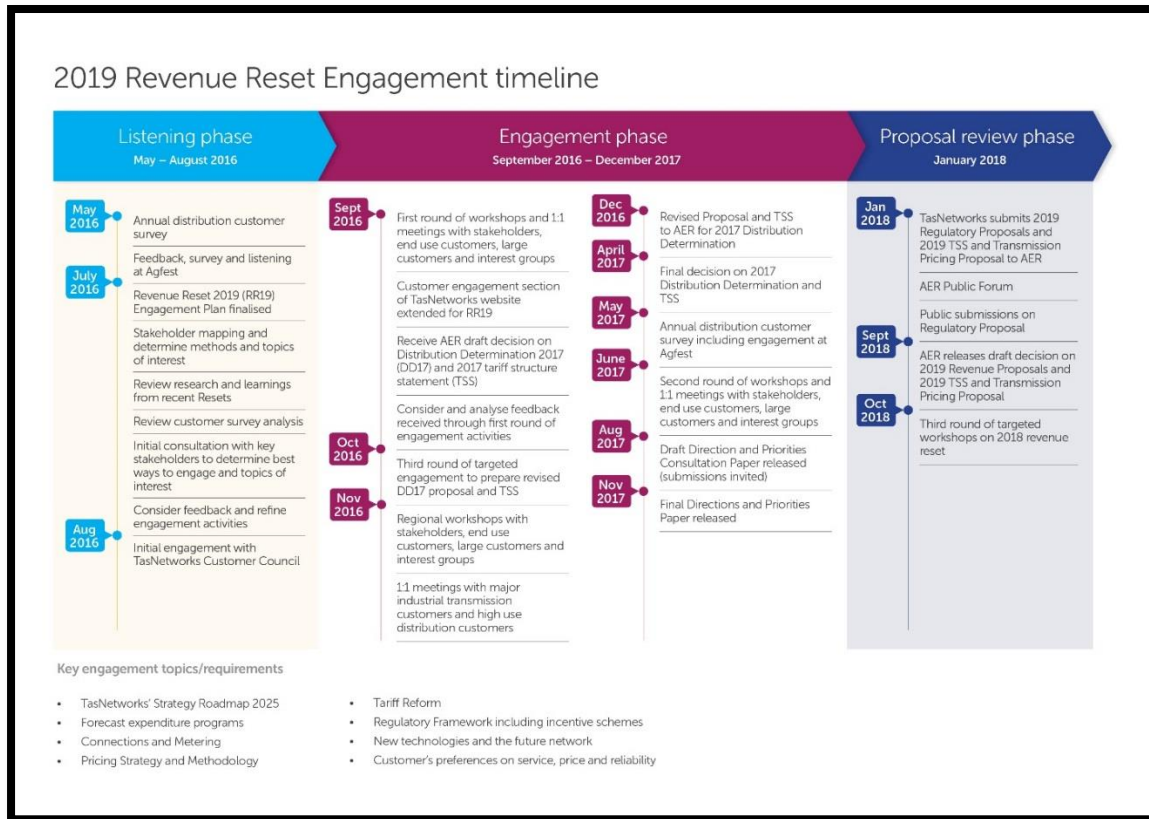
Early Engagement

TasNetworks produced the first draft / preliminary regulatory proposal for an energy network business in Australia, for pre-lodgement scrutiny for their truncated 2017-19 distribution regulatory proposal. This was recognised by AER Chair, Paula Conboy in her speech to the ENA in Brisbane in on 26th July 2017 where TasNetworks along with ElectraNet and AGN were lauded for their approaches to consumer engagement.

In January 2018, TasNetwork will submit its first combined, but ‘ring-fenced’ transmission and distribution proposal to the Australian Energy Regulator (AER) for the 2019-24 regulatory period.

Consumer Engagement Plan

TasNetworks is currently consulting with its customers on key aspects of the proposal summarised in image below.



2019 Revenue Reset Engagement Timeline

Significantly, TasNetworks will be utilising a wide range of engagement approaches and is again producing a “Draft directions and priorities consultation paper”, built on the experience with their first effort using this approach.

There are strong aspects of Deliberation/Negotiation Approach (DNA) in TasNetworks’ Consumer Engagement Plan. On Customer Engagement, TasNetworks’ official website lists out the following as their strategic goals in their Consumer Engagement Plan:

- Understand our customers and make them central to all we do
- Enable our people to deliver value and stay safe
- Care for our assets, delivering safe and reliable network services while transforming our business
- Operate our business to deliver sustainable shareholder outcomes.

TasNetworks' Key Consultation Activities

The development and application of a Customer Charter (2015 -16) is also an important aspect of their approach and means for building trust in engagement and trust from customers. The Charter as published by the TasNetworks states that it will:

- listen to and understand your [customers] needs
- put ourselves in your [customers] shoes
- deliver what has been promised
- consult with you on issues or changes that will impact you [customers] or your [customers] lifestyle
- undertake our work in a safe manner that is sensitive to the local environment
- continually review and find ways to improve our service to you [customers]

TasNetworks has also developed a network innovation strategy and provided funding for the Network Transformation Roadmap being conducted by the Energy Networks Association and the CSIRO. This work will guide TasNetworks’ responses to the opportunities and challenges associated with new and emerging technology.

We also think that the customer segmentation model is useful in reinforcing the understanding that customers are heterogeneous.

TasNetworks Customer Segmentation Model

TasNetworks must understand and respond to each of our customer segments to deliver fit for purpose service propositions tailored to address their varied needs.



e. Essential Energy

Essential Energy appeared to be further developing the process of “deliberative forums” in their regulatory proposal development for the 2019-24 period.

The intent is that the same people who attend They have engaged the company Woolcott to facilitate the process that involves to deliberative forums about four months apart in seven regional centres that are part of the Essential Energy region.

The process for each forum has been for all Woolcott to bring together about 80 people who are ‘bill paying’ customers and representative of the demographic the area to be part of a four hour process that provides short burst of information, maximum of 10 minutes input per topic, with three separate topics considered over the four hour period. Facilitated discussion occurs at tables of number 10 people. The evening session has also included the use of electronic voting to enable quick responses to relatively straightforward questions.

The intent is that the same people who attend the first deliberative forum in each location, will also return for a second forum 3 to 4 months later. While the topics of each forum will be different, we are interested to see if participants come to the second forum with any change to use to those that they had at the first forum.

This deliberative forum approach means that essential energy gathering a significant amount of customer input on both specific and more open-ended questions.

Essential Energy are also conducting a range of other consumer engagement activities including online surveys, bilateral meetings with large companies and groups with particular interests and they are providing information and seeking feedback through their “your say” website.

In addition, the company intends to prepare a draft proposal to be issued before lodgement and to garner feedback and comment from stakeholders and consumer interests.

While the Essential Energy’s consumer engagement strategy is currently underway, indications are that it may be one of the most comprehensive consumer engagement approaches undertaken by an Australian energy network business.

We observe with interest.

In identifying current activity being undertaken by TasNetworks and Essential Energy, we recognise that other businesses also are significantly enhancing their consumer engagement approaches and look forward to learning more about these approaches. Further detail about these developments will be in the next iteration of this report.

5. An Advocates Tale

As Uniting Communities has continued to consider approaches to better consumer engagement that result in more efficient network cost outcomes, occasional questions have been asked about why Uniting Communities is interested in the often esoteric world of network regulation? More recently we are being asked about our perspective, as a community organisation focused on the needs and interests of lower income people, on the current state of consumer engagement?

This section briefly tracks the experience of Uniting Communities as one advocate organisation with a particular interest in consumer engagement, though we might generally use the term “community development.” This is one organisations perspective, it doesn’t mean it is “right” nor does it mean that other community organisations will agree with our reflection and experience. It is an attempt to tell a brief story that might help a range of stakeholder to understand where we’ve come from. It also tells a different story to that more frequently told by network businesses or even from the perspective of a regulator, these sectors are better resourced to tell their own story.

The intent is to discuss the motivation of this community organisation, including some of the history that has prompted recent developments. This section also summarises the key, formal actions that Uniting Communities has taken, recognising that quite a bit of activity has been in attending network business meetings and forums as well as many informal discussions. Importantly we reflect on the lessons that we have learnt, or are continuing to learn. We must expect of ourselves the processes and behaviours that we expect of network businesses.

The section concludes with some brief observations in response to the consumer engagement by energy network businesses and the question “are we there yet?”

Initial motivation

By way of background, the affordability of electricity first hit the South Australia newspapers in 2003/4 when there was an average increase in household electricity bills of 27%. This sharp increase followed the move to full retail contestability of the South Australian electricity supply, generally referred to as “privatisation.”

The previously State owned vertically integrated Electricity Trust of South Australia (ETSA) was split into four components, with generation and retail being left to the market, though there was an initial process to allocate retail customers to privately owned businesses. AGL won the tender for the largest group of retail customers. The network was then to be managed by ElectraNet for transmission and

ETSA Utilities for distribution. Regulation of these network businesses was to be the responsibility of the Essential Services Commission of South Australia, ESCoSA.

The impact of diminishing energy affordability was most promptly experienced by financial counselling services as growing numbers of people on low and fixed incomes sought help, driven by large and uncertain electricity bills.

Many efforts were made to talk with the energy retailers about the impacts of rapid increases in prices but the response was a stony silence. As the number of people disconnected from electricity supply due to their inability to pay, increasingly approached community services, we were required to take further action. This was our initial spur to action as energy advocates and remains our major ‘raison d’etre’ for continued participation in energy advocacy - the need for lower energy prices for the thousands of low income households for whom this essential service is simply unaffordable.

In terms of initial action, ESCoSA agreed to investigate disconnections from electricity supply due to inability to pay. A media conference was organised for the day that the regulator report about disconnections was to be released. It was the lead story on every TV news service. Energy retailers scrambled to talk with us and we have subsequently not had any trouble meeting with energy businesses.

What we learned:

While things have changed, our capacity to be at least ‘irritating’, or a more significant threat to businesses due to us highlighting a major social problem in the media has given us the initial ‘foot in the door’ with energy businesses, including networks. Over a decade later relationships with energy businesses have developed substantially and our interaction is much more constructive, with our capacity to ‘threaten’ not being overplayed

Our capacity to engage with the media and the political process prompted energy businesses to take us seriously

NECF and Networks

Following our initial forays into energy advocacy, there were opportunities through the new Retail Price Working Group to complete the national electricity legislative compendium, through what became known as the National Energy Customer Framework (NECF). We joined with interstate advocates through the national energy customer Roundtable to be part of an active consumer voice in this process.

After a couple of years of minimal real reduction in prices, they rose again in South Australia and continued to be much higher than pre-2003/4. ESCoSA commence the process of establishing a regulated allowance for ETSA Utilities the now privately owned distribution business, for the period 2009-14.

By 2010-11, overall prices for customers were still rising and the most common response to why electricity prices were rising was that network margins were too high and that it was the network component of customer bills that was pushing up the total price. In advocating for consumers, Uniting Communities decided to focus more directly on network prices, through the regulatory process, which was now the responsibility of the national Australian Energy Regulator.

Working through our national body, UnitingCare Australia, Uniting Communities (as we are now known) applied for funding through then Consumer Advocacy Panel to help us respond to a major rule change that was underway, through the Australian Energy Market Commission. The intention of the rule change was to revise the rules under which network regulatory processes occurred. Bruce Mountain from Carbon, Markets and Economics was engaged to prepare submission content to be utilised by consumer advocates, including UnitingCare Australia.

Concurrent Activities

At this time an energy white paper was being developed by the Commonwealth Government

The focus on energy prices and the role of regulated networks gathered momentum during 2012.

There were many disparate processes underway, and in 2012/13 a convergence of thinking began to emerge, more specifically in relation to consumer engagement.

This is evidenced by the following:

1. Australian Energy Market Commission (AEMC) 29th November 2012
 “A number of the amendments made also attempt to address a lack of focus on consumer engagement and participation”
 – AEMC RULE DETERMINATION, National Electricity Amendment (Economic Regulation of Network Service Providers) Rule 2012 and National Gas Amendment (Price and Revenue Regulation of Gas Services) Rule 2012, 29th November 2012
2. Australian Energy Regulator (AER)
 The AER has included “Network service provider customer engagement guidelines” as one of the 7 streams of it’s 2013 “Better Regulation” program.
3. Productivity Commission, Electricity Network regulation, released 26th June 2013
 “the overarching objectives of the regulatory regime is the long term interests of customers. This objective has lost its primacy as the main consideration for regulatory & policy decisions.

Its pre-eminence should be restored by giving consumers much more power in the regulatory process” (p 2)

With perhaps a little more panache, the same Productivity Commission report also said: “This report includes extensive analysis of issues directly related to benchmarking and interconnectors. However, the Commission has found that it is not possible or desirable to look at those issues separately from the complex and interrelated regulatory system in which they sit. There is, in effect, no point in simply fixing a punctured tyre if the car has no engine....Consumers need a clear voice in the regulatory regime.”

4. Standing Council on Energy and Resources (SCER) and Council of Australian Governments
 “SCER endorsed the strengthening of consumer input into network pricing decisions and noted the Commonwealth’s proposal to establish a Consumer Challenge Panel within the AER to ensure that consumers are better represented within regulatory decision and appeal processes. SCER further agreed to develop, in close consultation with consumer bodies, a proposal on the form, scope and funding of an institution that would be a strong national advocate for consumer interests that is well equipped to contribute constructively to energy policy and market development issues.” SCER report to COAG 7/12/13, endorsed by COAG

Consumers needed to be central to energy policy, regulation and the operation of the market. Acceptance of the need for a much greater focus on consumer engagement in energy markets, and particularly network regulation had arrived. There can be little doubt that 2013 was a watershed ‘moment’ for the inclusion of consumer perspectives and processes in relation to Australian energy markets.

What we learned.

There are rare occurrences when the tide of public and political opinion turns in the direction that an advocate wants. It is crucial to be able to recognise those times and to be involved with them as actively as possible. An ability to seize the moment is crucial

Uniting care Australia was one of a handful of energy consumer focused organisations that put considerable effort into the many formal processes that were underway while continuing to support media that highlighted the need for change to decision-makers. For example on 21st March, 2012, the Adelaide Advertiser front-page headline was “South Australian power prices to be highest in the world”. This article drew on data prepared for the Major Energy Users white paper submission, the story supported by Uniting Communities.

We were also surprised to learn that organisations with which we didn't always agree (e.g. on wages and incomes policy), could be important allies on other issues, in this instance large companies addressing high energy prices. We have much more in common than we could have imagined.

Funding for energy advocacy, initially through CAP was essential for us to be able to be involved in policy and regulation development, and reflect the day to day experience of our clients.

Better regulation – Consumer Engagement

In early 2013, the AER responded to the new network regulation rules and the greater focus on consumer engagement. They commenced a “better regulation” programme which was to develop seven guidelines that would be applied to working with the new rules for network regulation, one of which was to be the first of consumer engagement guideline. A discussion paper was developed early in 2013 as pre-emptive input for the AER’s consumer engagement guideline.

This development was pivotal in re-orienting our focus on consumer engagement.

Given the extent of consumer engagement that Uniting Communities undertakes in the provision of a wide range of community services, we decided that we could make a significant contribution to the envisaged process of community engagement by the energy sector.

Introducing IAP2

One of the first things that we suggested was to utilise the IAP2 spectrum as a tool to better understand energy network regulation. Uniting Communities suggested the following:

“The International Association of Public Participation (IAP2) has developed a ‘spectrum of public participation’ which we suggest is a useful way of ordering the range of energy consumer engagement processes. The IAP2 spectrum is shown in section one of this report and starts with the “Public Participation Goals” spectrum: Inform; Consult; Involve; Collaborate; Empower.

For energy consumer engagement, this spectrum is very helpful in identifying the range of processes that can be considered as part of this engagement.”

Uniting Communities also focussed on the purpose of consumer engagement:

“For Uniting Care Australia, the objective of energy consumer engagement should be “giving consumers much more power in the regulatory process” as recommended by the Productivity Commission. For community workers, this concept is expressed as “empowering consumers”, with particular attention being given to empowering consumers who are least powerful. This means finding ways of maintaining direct and ongoing participation of consumers in energy regulation, rulemaking and legislative processes and asking clear questions that inform network businesses and the regulator and which are presented in a manner that enables clear consumer response.

We are committed to consumer engagement processes that involve ongoing input from a diversity of residential and small business energy bill payers, channelled through community based organisations

that are adequately resourced to be conduits between such consumers and utility companies, and to seek expert advice to augment consumer based experience.”

Mechanisms for Community Engagement

We believed that attention needed to be given to the mechanics and processes of consumer engagement and identified the following approaches as being pertinent at the time:

1. *Energy Literacy. There is a role for energy literacy, but we are wary of any approaches that attempt to put unreasonable responsibility on consumers to be able to understand complex ‘offers’ from energy marketers. In short, a ‘buyer beware’ attitude is unacceptable.*
2. *Consumer Advisory Panels. The 2012 AEMC rule change regarding network regulation proposed that businesses seeking regulated price increases would need to demonstrate to the AER that they have consulted with Consumers, most likely through Consumer Advisory Panels*
3. *“Show your bills” days. These are local level community events where customers can show their bills to community workers or possibly representatives of retailers or ombudsman, to check whether they are paying too much and to get information about how they may be able to reduce energy costs.*
4. *Rule Changes. We started thinking about the capacity of community organisations to not only respond to, but also initiate rule changes*

Following on from these approaches, we later raised the potential for “negotiated settlements” or similar, to be developed in Australia, and that the concept was contentious at the time, recognising that they came from a different regulatory setting to that in Australia.

Overtime, we began to more keenly unpack the term ‘consumer engagement’, with was tending to mean different things to different people. This led to the development of a “consumer engagement

hierarchy” which is reproduced at the end of this section. One of the intents of this ‘hierarchy’ was to identify different roles and approaches for bill paying consumers and for consumer advocacy.

What we learned

Through active involvement with the AER better regulation consumer engagement guideline we recognised that as a community organisation we had a breadth of experience which was more comprehensive than energy businesses and that demonstrated by regulatory bodies. This experience could be usefully applied to aspects of energy markets, particularly consumer engagement. It took us quite a while to figure this out, but we were surprised by how much interest there was in IAP2 and other models that we proposed.

Brief reflection

We note that our perspective has changed in the five years since we first presented consumer engagement thinking to the AER, with key developments in our thinking being:

1. Rather than advocating for *“consumer engagement processes that involve ongoing input from a diversity of residential and small business energy bill payers, channelled through community based organisations”* we increasingly recognised the merit of engagement strategies that seek input directly from bill paying customers particularly through deliberative processes as well as focus groups and surveys. We came to recognise recognising the role of consumer advocates in providing the important function of facilitating broader consumer input.
2. Moving away from the idea of consumer advocacy groups representing consumers towards seeing them as able to represent a consumer perspective.
3. Continuing to recognise the importance of a diversity of views being sought in any engagement process
4. Rather than promoting ‘negotiated settlements’ as per the North American system we support future processes that allow for documented agreement between consumer interests and network businesses. However we recognise that this form is something that needs to evolve in Australia in a way that is relevant to the Australian regulatory system

The DNA approach evolves

By 2014 the role of Limited Merits Review (LMR) appeal processes was increasingly topical, and energy bills for customers kept on rising. At the same time there were some limited discussion about consumer engagement without much actual engagement happening. We observed a general trend of network businesses outsourcing the engagement process by appointing consultants to manage consumer engagement, rather than actually “getting their hands dirty” with engagement themselves.

UnitingCare Australia was becoming increasingly interested in the principles and practice of local democracy and new democratic processes in general, in part as a means for giving voice to lower income and disadvantaged people across a wide range of issues, including disability, aged care, income support, housing and other issues pertinent to them. Given that our research at the time was showing that electricity bills were the second most important bill to be paid by lower income households, after

rent and also noting that energy bills were by now the number one presenting issue to financial counselling services, we thought that there was need and a place for more engagement and democracy in energy markets.

The idea of “negotiated settlements” did however remain in our thinking, as a potential direction for further democratisation of Australian energy markets.

It became clear to us that the formal US approach of “negotiated settlements” did not sit well in the Australian regulatory context. Utility regulation in United States is a more overtly legal process than it is in Australia and the formal consumer representatives in the regulatory determination hearings are attorneys based in state administrations whose role is to represent a generic consumer perspective, in court. In this more overtly legal process, a formal negotiated settlement can exist because there are clear procedural step to achieve a “settlement”. Identified parties in the regulatory hearings can give meaning to a formal “negotiated settlement” document, through the ‘court’ accepting an agreement. We remained sceptical about trying to introduce a North American style ‘negotiated settlement to Australia

However, the concept of working towards an agreement between consumer interests and network businesses still made sense and we believed that processes seeking agreement were still possible under Australian regulatory processes, and the National electricity and national gas rules. To achieve any sort of agreement there would have to be negotiation – exactly what form this would take was still not clear at this stage.

To deal with the opinion that bill paying customers could not be usefully engaged in the detail on more technical issues of energy network regulation, we explored deliberative processes with citizens’ juries being the key example. It was clear to us that citizens’ juries had considered complex issues outside of energy matters and that this sort of approach could be very effective in enabling consumer engagement with more complex and technical matters.

So in the June 2015 “DNA Approach” paper we concluded that the energy network processes characterised by “propose - defend – litigate (through LMR)” could, at least conceptually, be replaced by consumer engagement processes characterised by “deliberation - negotiation – agreement,” which was summarised as “the DNA of network regulation.”

The first significant public airing of the DNA approach was at the Regulator’s Forum at the end of 2015, where we were surprised at the level of interest. Perhaps even more significant is that a couple of network businesses started talking to us further about our thinking.

The following sections of this paper serve to document the observations of Uniting Communities about the current state of play with consumer engagement that implicitly or explicitly seeks agreement with consumer interests and of particular interest to us, uses negotiation or deliberative processes.

The rest of this section tracks our perspective in engaging with three different network businesses, each of which is demonstrating aspects of effective consumer engagement with significant levels of either deliberation or negotiation.

Living DNA – 3 stories.

This section summarises the engagement experience of one consumer focused organisation with three different network businesses, ElectraNet, Australian Gas Networks and SA Power Networks, using the following “consumer engagement phases” to provide some structure of consideration:

1. Initiating and scoping phase. Including: How did the project start, who selected people representing consumer interests, what roles business play?
2. Relationship building phase. Including any history between people representing consumer interests and the business, processes by which relationships were built or tested. Recognising the relationship development and maintenance is ongoing, the consistency will include this phase at this stage of our commentary
3. Introducing DNA phase. This deals with the consumer advocate input action, for Uniting Communities it summarises processes by which potential for agreement through deliberation and negotiation were considered
4. Implementation phase for each of the three businesses this focuses on the consumer engagement associated with a particular network regulatory proposal.
5. Outcomes. Again this refers to outcomes from a particular regulatory process. Also reflection from Uniting Communities about our experience of the process, and current state of play
6. Way forward. This deals with both next steps from the business point of view, along with Uniting Communities observations.

Under each subheading we summarise both what was happening with the process overall and any specific role that Uniting Communities played, as a consumer organisation.

ElectraNet

1. Initiating and scoping phase

The focus during this phase is on consumer engagement in the lead up to lodging the regulatory proposal for 2018 - 23, for the South Australian electricity transmission business. Uniting Communities was approached to be part of a “Consumer Advisory Panel” (CAP) in August 2015, about 18 months prior to the planned regulatory proposal lodgement in January 2017. The approach to join the Consumer Advisory Panel included a summary of the process that the ElectraNet Board had agreed to and the name of an independent consultant who have been appointed to assist with the process. Uniting Communities was approached as one of a number of South Australian community and

business organisations that ElectraNet believed would have something to offer to the CAP. The initial couple of meetings were quite structured and focused on an initial understanding of the business and a fairly rigorous workshop to identify the full range of issues that may be part of the regulatory proposal, along with a sense of the priorities from CAP members.

Uniting Communities accepted the invitation to participate on the basis that the approach appeared genuine and the fact that the independent consultant was known to us and that the Board had signed off on the process gave some additional grounds for trust. Our initial approach was to participate as actively as we could with the expectation that we would be taken seriously.

2. Relationship building phase

Prior to being asked to join the CAP, Uniting Communities had had very little contact with ElectraNet, and so there was not much of a relationship in place, we were largely unknown to each other.

As a member of the CAP, we felt that the level of trust built quite quickly. This was enabled by the willingness of ElectraNet staff to explain key aspects of their business and issues that they were confronting, in detail. The process was sound and reports of meetings accurately reflected comments that members including ourselves had made, thereby indicating that we were being heard. The independent consultant also checked on minutes, agenda items, issues of interest and our level of satisfaction between meetings, further engendering confidence in the process and building trust. We considered that the strength of the relationship built quickly and we were confident about proposing some alternative approaches to ElectraNet, quite early on.

3. Introducing DNA phase

At the second meeting of the CAP, Uniting Communities suggested that the engagement process that had commenced could include a consideration of the objective of achieving agreement at least between Members and ElectraNet, in line with the “DNA approach.” The argument being that by the time ElectraNet lodged their regulatory proposal, the contentious rate of return parameters would have been sorted out through regulatory grounds and appeals with other network businesses. Further, the initial indication was that there would not be significant new capital expenditure required. We argued that without the two most contentious issues from most network regulatory proposals, there was a good probability that many of the issues that would be dealt with as part of the final regulatory proposal, could be agreed before lodgement. Some members expressed interest in this approach, as did ElectraNet. The transmission business promptly engaged Harding Katz to provide separate advice on the applicability of undertaking a negotiation process with a view to seeing the extent of agreement that could be reached.

Uniting Communities regarded this move as a substantial step of good faith. We also decided in January 2016 to formally write to the CEO of ElectraNet proposing an application of the negotiation and agreement elements of the DNA approach. The content of this intended letter was discussed with ElectraNet before the letter arrived, the intent was being actively considered.

Meanwhile the Harding Katz report encouraged ElectraNet to embark on a “fast track” approach to their proposal, with negotiation and significant anticipated agreement occurring through the release of a preliminary revenue proposal which would be released about six months before formal lodgement was required. The early release of the preliminary revenue proposal would also enable time for ‘deep dives’ to occur for more contentious and more substantial issues to be debated and potentially negotiated.

4. Implementation phase

The implementation phase was relatively straightforward with the main topics discussed being a hardening of the Eyre Peninsula section of the transmission network and whether this would be part of the regulatory proposal or undertaken separately as a contingent project. The preliminary revenue proposal was produced and distributed to stakeholders in August 2016, and deep dive sessions planned with a working group of the CAP, and in some instances with a nominee of the regulator as an ‘observer.’ Through this process we were able to discuss much of the technical detail of the deep dive issues without committing to any particular regulator opinion.

The implementation phase was relatively straightforward - that is until 28 September when extreme weather led to a state-wide blackout as transmission towers were blown over tripping most wind generation and the interconnector creating a ‘system black’. This in turn triggered a special meeting of the COAG energy Council, a maelstrom of debate (not all was well informed) and an inordinate number of reports.

The upshot was that ElectraNet was heavily involved with immediate repairs to the Transmission network as well as analysis of what happened. In addition there was pressure from a number of sources for an additional interconnector to strengthen the South Australia electricity grid. ElectraNet had applied for a two-month extension for lodging their regulatory proposal, which was granted, and also had to hurriedly rethink the “no significant new capital expenditure” thinking.

ElectraNet continued to provide updates to its CAP members during this period of unforeseen uncertainty on embarking on separate processes, Regulatory Impact Test – Transmission (RiT-T) to consider both an additional interconnector between the SA network and eastern states, as well as continued thinking about improving the Eyre Peninsula lines.

Regarding the regulatory proposal, ElectraNet gave a briefing to CAP members about what it had heard and responses in general to the preliminary revenue proposal. We are very confident that the input received by ElectraNet, before lodging their proposal with the regulator, was taken into account and largely incorporated into the final proposal.

5. Outcomes

At a forum conducted by the ENA in July 2017, AER Chair Paula, Conboy, specifically identified the consumer engagement approach undertaken by ElectraNet, she said

ElectraNet has also undertaken significant consumer engagement in the development of its regulatory proposal. This included the publication of a Preliminary Revenue Proposal and a series of meetings considering aspects of its proposal and hosted by an independent facilitator. ElectraNet’s engagement has been supported by consumer representatives, the government and business.

This is a significant outcome for the ElectraNet approach and reflects the views of Uniting Communities that the journey from “fast track” to “preliminary revenue proposal” did actively seek to engage consumer interest and engagement and was an open and constructive process.

Key elements contributing to the success, from our perspective, of the ElectraNet approach were:

- a. Early start, ElectraNet Board and senior management were thinking about their approach a couple of years before proposal lodgement was due.
- b. Sign-off of approach and support throughout from the Board and senior management
- c. Appointment of highly skilled independent consultant to both advise on the engagement strategy and to manage it as well as to actively work to bring stakeholders along
- d. Commitment to releasing a preliminary revenue proposal, and following through on that commitment
- e. Specifically identifying in the final regulatory proposal the input received from stakeholders, including consumers, and action undertaken by ElectraNet in response to this feedback and advice.

6. Way forward

At the time of preparing this report, ElectraNet was collating responses to the revenue proposal that had been received by the AER and considering actions that they could undertake in response. They are also continuing to hold meetings of the CAP, it is important as ongoing relationships need to be maintained.

The other issue for ongoing consumer engagement relates to contingent projects, specifically network expansion or ‘hardening’ that is being considered outside the formal regulatory process. Maintaining

strong consumer and stakeholder engagement through these processes will be important in extending the good relationships developed during developing the regulatory proposal.

Australian Gas Networks

1. Initiating and scoping phase

Australian Gas Networks have been involved with two gas Access Arrangement (AA) proposals over the last couple of years, the first for the South Australian operation and more recently the Access Arrangement for Victoria / Albury. In considering better practice consumer engagement, our main focus has been on the more recent process, with the observation that AGN improved their consumer engagement approaches significantly in the relatively short period of time between lodging the South Australian and then the Victoria / Albury Access Arrangement proposal.

AGN lodged their Access Arrangement proposal for South Australia on 10th July, 2015 and their proposal for Victoria / Albury on 22 December 2016.

Uniting Communities regarded the South Australian Access Arrangement proposal as being quite reasonable, with some intensive consideration of a couple of key aspects of the SA proposal, in particular incentive arrangements and a proposed expansion of the network to the Mount Barker area. We also observed that the quality of consumer engagement and the willingness to embed consumer engagement into the Access Arrangement proposal developed significantly in the 18 months to lodgment of the Victorian / Albury proposal.

AGN first approached Uniting Communities about a year before the SA Access Arrangement was to be lodged, to be a member of the AGN SA reference committee. We had minimal prior engagement with AGN, but were starting to understand the growing impact of gas bills on household budgets and were also recognising the symbiotic relationship between gas supply and electricity generation. Once the Victoria and Albury reference committee was established, we observed significant levels of overlap and that some common participation from consumer interests across the two reference committee’s may be useful. So we offered to be a member of the Victorian Albury reference committee as well.

2. Relationship building phase.

Unlike our relationship with the other SA energy network businesses, Uniting Communities had no relationship with AGN before being invited to be a member of the reference committee. Indeed we had some antipathy towards gas as a fuel source for households when first approached as electric appliances that were previously the domain of gas were becoming more efficient. We were also concerned that new households would be worse off with gas and electricity supply, by paying for two

supply costs when most households could do well as “all electric.” Somewhat surprisingly, our relationship grew quite quickly, promoted by a relatively intense engagement over a relatively short period of time in the development of the South Australian Access Arrangement proposal. AGN was also clear that gas is a ‘fuel of choice’ and so it is beholden on AGN to ensure that total gas bills are cost competitive. We grew to trust AGN quite quickly; on reflection the main reasons for this were:

- a. A strong sense of purpose and direction for AGN that was upfront and honest, summarised by the understanding that “gas is a fuel of choice.” This making it different from the essential services of electricity and water with which we had at most engagement.
- b. A keen interest to explain AGN’s issues, realities and ideas to interested stakeholders including technical details - for example the relative merits of different materials for mains, and maintenance arrangements for pipes made of different materials.
- c. Clear leadership from the CEO and his willingness to meet with consumer interests to assist us to be as informed as possible
- d. A very clear sense of being heard when we offered ideas or suggestions - we experienced AGN staff is very open and collaborative.

3. Introducing DNA phase

Uniting Communities did not formally introduce the DNA approach to AGN, rather as a member of reference committees we actively discussed our preferences for active engagement between the business and consumer interests prior to lodgement of the Access Arrangement proposal. We highlighted our objective of finding ways to seek agreement rightly shared understanding.

This principle was endorsed by AGN, with the CEO’s initial response being that AGN was committed to “no surprises,” proposals being lodged, a language that recurred through reference committee meetings and other engagement involving AGN and stakeholders. The language and philosophy of “no surprises” fits through comfortably with the DNA approach since we understand “no surprises” to infer a high degree of discussion and negotiation in the lead up to lodgement of the AA proposal, with the objective of finding agreement wherever possible.

4. Implementation phase

One of the strong themes through both AA proposal was for the development of a broader incentives regimen for gas network businesses in Australia including the proposal for the establishment of an innovation incentive. AGN collaborated with other stakeholders and gas network peers in running separate forums on this topic and on releasing a discussion paper for response. Uniting Communities made a written response to the incentive discussion paper and was proactive in debates about the proposals.

For Victoria /Albury, AGN released a draft AA proposal about six months before lodgement was due, enabling informed and detailed discussion to occur at reference committee meetings and inviting

written response. This was a major mechanism by which AGN intended that “no surprises” was achieved, and we support this view.

In responding to the Access Arrangement as lodged with the regulator, Uniting Communities highlighted the no surprises approach and have formed the view that the process has been particularly effective both in informing’s consumer and other stakeholder engagement and in building trust with AGN.

5. Outcomes

The draft report process has been implemented with very clear reporting to the regulator and consumer interests on how consumer feedback was incorporated into the AA proposal.

The Chair of the AER also highlighted the AGN ‘draft proposal’ process as encouraging at the ENA Brisbane forum in July 2017, along with commending TasNetworks and ElectraNet on applying similar processes.

6. Way forward

There are a couple of shorter term issues that likely can be resolved with ongoing, pro-active consumer engagement, firstly relating to network expansion, particularly to Mt Barker in South Australia. Then the issue of incentive schemes needs some more development work, but we think that the innovation incentive, in particular has considerable potential. The main challenge is to develop an incentive regime that encourages innovation and results in consumer benefit.

The emerging AGN focus on hydrogen is of interest, firstly to reduce the carbon emissions from gas by increasing the amount of hydrogen in the gas mix, with a longer term view to potentially an all hydrogen gas supply, though this probably has a 30-40 year time horizon. The exploration of hydrogen fuel cells is also of interest.

The exciting possibility is for consumer and stakeholder engagement to support AGN innovation in future applications of hydrogen, both as a reticulated gas and also for hydrogen ‘fuel cells’ for zero carbon emissions heavy vehicles.

SA Power Networks

1. Initiating and scoping phase

Our consideration of SA Power Networks, in this report, focuses specifically on the two deliberative processes that they ran during 2015-16. We believe they remain the only Australian energy network business that has undertaken what we have generally referred to as a “full deliberative” process. SAPN, through democracyCo applied a ‘citizen’s jury’ deliberative process to two complex issues. Their

experience therefore is particularly significant, as a test for the applicability of deliberative processes to deal with consumer input into more complex energy issues, the “D” of the DNA approach. Note that we understand that Yarra Valley Water is conducting deliberative processes during 2017

2. Relationship building phase

SA Power Networks and Uniting Communities have a long relationship as two long-standing South Australian organisations. Uniting Communities has had active input into the past three regulatory proposals for SAPN (and as ETSA Utilities) and we have debated a range of issues over many years including expressing different views about the reasons for price increases. This means that we had much longer term relationship with SAPN than with either AGN or ElectraNet, a relationship that had at various times in the past been ‘testy,’ though always respectful. We suggest that the relationship has continued to improve over the last couple of years, for a range of reasons, including SAPN’s willingness to trial a deliberative processes.

3. Introducing DNA phase

SAPN received some flak for aspects of their consumer engagement in the lead up to their 2015-20 regulatory proposal, they were also very keen to be recognised for good-quality consumer engagement. In part as a precursor to development of their initial tariff structure statement, later in 2016, SAPN decided to establish two citizen’s juries, the first one dealing with pricing principles and the second to focus on equitable solar feed-in tariff arrangements. Soon after UnitingCare Australia presented at the regulator’s forum in November 2015, during an informal discussion with a couple of SAPN staff, we offered to provide some further information about how a deliberative process might function for energy business.

The Director of Services Development for UnitingCare Australia, Ian Holland and Mark Henley met with SAPN senior staff about processes to ‘democratise energy processes’ early in 2016, to discuss ideas about developing a range of activities that lead to consumers being able to influence decision making. These activities, it was suggested might involve meeting with groups of consumers to identify primary issues and to discuss a framework for engagement with agencies, regulators and industry to present primary issues for consumers. Then it was suggested, collaborative/citizen jury type processes could be applied to present information and facilitate open discussion and decision making involving ‘end consumers’. A CUAC (Consumer Utility Advocacy Centre) report that had just been released was discussed too, UnitingCare Australia emphasising that there is a range of deliberative processes.

Subsequent informal feedback from SAPN staff said that this meeting and encouragement from UnitingCare Australia were important factors in SAPN deciding to conduct the two deliberative processes.

4. Implementation phase

With a statement from SA Power Networks *“that customer impacts should be considered alongside economic impacts in the setting of electricity network tariffs,”* SAPN decided to develop a set of customer impact principles through a facilitated deliberative process and they engaged “democracyCo” as the independent facilitator.

An “electricity advisory panel” was appointed in December 2015 to participate in the deliberative process. Interestingly the panel was recruited from a customer database selected to represent a broad demographic mix of SAPN customers, being 20 people with an additional 12 people being representatives of stakeholder organisations including business and non-government organisations and consumer advocates. “Interesting” because the electricity advisory panel was deliberately established with a mixed membership of ‘bill paying customers’ and stakeholder representatives. This mix of participants in a citizen’s jury is rare in application. Uniting Communities chose not to be part of this process, largely because the timing clashed with leave for key people.

5. Outcomes

Reports for the two deliberative processes were both provided to SAPN, by democracyCo. Of particular interest is that feedback from participants was that the processes were informative and they considered that they were able to understand the issues at play and to effectively contribute to the final decisions.

Also SAPN senior staff, were surprised at the extent to which people who had not been an active part of protracted energy debates, were able to understand the key issues and to provide direct and meaningful advice to SAPN. Such advice has significantly assisted SAPN in developing policy and program positions as well as regulatory proposals.

Both participants and SAPN were surprised at the extent of agreement coming out of the processes.

6. Way forward

SAPN is now consulting and planning their regulatory proposal for the 2020-25 period. A new consumer consultative / advisory structure has been established. The challenge for all participants, including SAPN is to both apply the outcomes of the deliberative processes and decide how to apply these as part of broader engagement approach for 2020-25

| Summary Table | ElectraNet | AGN | SAPN |
|---|--|---|---|
| Initiating / Scoping phase | ElectraNet Board commences consideration of consumer engagement approach about 2 years before lodgement due. ElectraNet identifies potential Consumer Advisory Panel members and issues invitations. | Development of Victoria / Albury engagement approach built on initial steps with SA AA proposal development, 18 months earlier. AGN identifies potential Consumer Advisory Panel members and issues invitations. | Decision to trail deliberative process as part of improved consumer input, initially regarding Tariff structure Statement process, 2016 |
| Relationship Building (NSP and Uniting Communities) | The negotiation process, and taking the “DNA approach” seriously was central to developing a trust based relationship | Relationship development through interaction and participation on reference committee | Direct input to SAPN about the case for and approaches to deliberative processes strengthened relationships with constructive advice from both ‘sides’ being taken seriously |
| Introducing DNA | The concept of seeking agreement between consumers and the network as outlined by the DNA approach was raised in early CAP meetings and a letter from UnitingCare proposing application of aspects of DNA approach also sent. | Concepts of DNA approach raised as part of AGN’s reference committee process | Meeting with SAPN to explore concept and application of a deliberative approach |
| Implementation | In response to the Harding Katz report, partly responding to the “DNA approach” ElectraNet decided to trial a ‘fast track’ approach which became a “Preliminary revenue Proposal” that sought stakeholder comment, before lodgement and was also the basis of pre-lodgement ‘deep dives’ on major issue. Uniting Communities responded to the PRP and was part of ‘deep dive’ discussions. Uniting Communities responded positively to approach in submission to AER | Development of a draft proposal for the Victoria / Albury Access Arrangement. This was the basis of a ‘no surprises’ AA proposal being lodged. Uniting Communities responded with a submission to an “incentives paper” developed by AGN and other gas network businesses Uniting Communities responded positively to the process in submissions to AER | Independent company, democracyCo conducted two ‘citizens’ juries’ for SAPN. Findings were very useful for SAPN for policy and practice development. |
| Outcomes | “Preliminary revenue Proposal” approach implemented and endorsed by AER Chair at ENA conference 26 th July 2017 | “Draft Proposal” approach implemented and endorsed by AER Chair at ENA conference 26 th July 2017 | Deliberative process (based on citizen’s jury methodology) applied for the first time by Australian energy business, all parties surprised at level of agreement from participants. Process outcomes applicable to SAPN policy and planning |
| Way Forward | Engage with consumer interests in contingent projects, particularly Eyre Peninsula | Consumer supported innovation, nb hydrogen | Application of deliberative, and other engagement processes to 2020-25 regulatory process |

What have we learned?

Having spent quite a bit of time focussing on the three South Australia and based network businesses that have all applied aspects of the “DNA Approach”, we are more than ever convinced about the soundness of the concepts we raised in 2015, in the initial paper. What is a surprise to us is the amount of progress that has been made, in general and by network businesses in particular. Of note is the level of interest shown consumer groups and regulators in seeking processes for regulatory proposal development that are more collaborative, consumer centred and which are seeking agreement. At this stage the level of agreement appears to be more implicit than explicit, but there is more discussion emerging about what forms of explicit agreement would look like.

Not surprisingly we have had it reinforced over and over again that, trust in any such agreement making process would be crucial, while recognising that trust can be elusive.

As a consumer organisation we believe we have been taken seriously at all times and have learned that it is invariably the informal and networking processes that are required to make more formal processes effective. In short, sharing over coffee is important! People of goodwill with broadly shared goals can achieve significant progress chatting over a cup of coffee, or through other informal but transparent processes.

Getting started can be the most difficult part, with senior management of network businesses, preferably boards, wanting to effectively engage with a range of consumer interests. Stakeholders and particularly consumer interest groups need to be open to overtures from businesses, clear about their objectives and willing to discuss, learn, share and negotiate with businesses, in good faith.

Sincerity is crucial for all parties, this means that mistakes can be made, but through open communication, there is learning from slips as well as success. Sincerity also means that agreement is sought, but areas of disagreement can be identified, accepted and not get in the way of matters of agreement

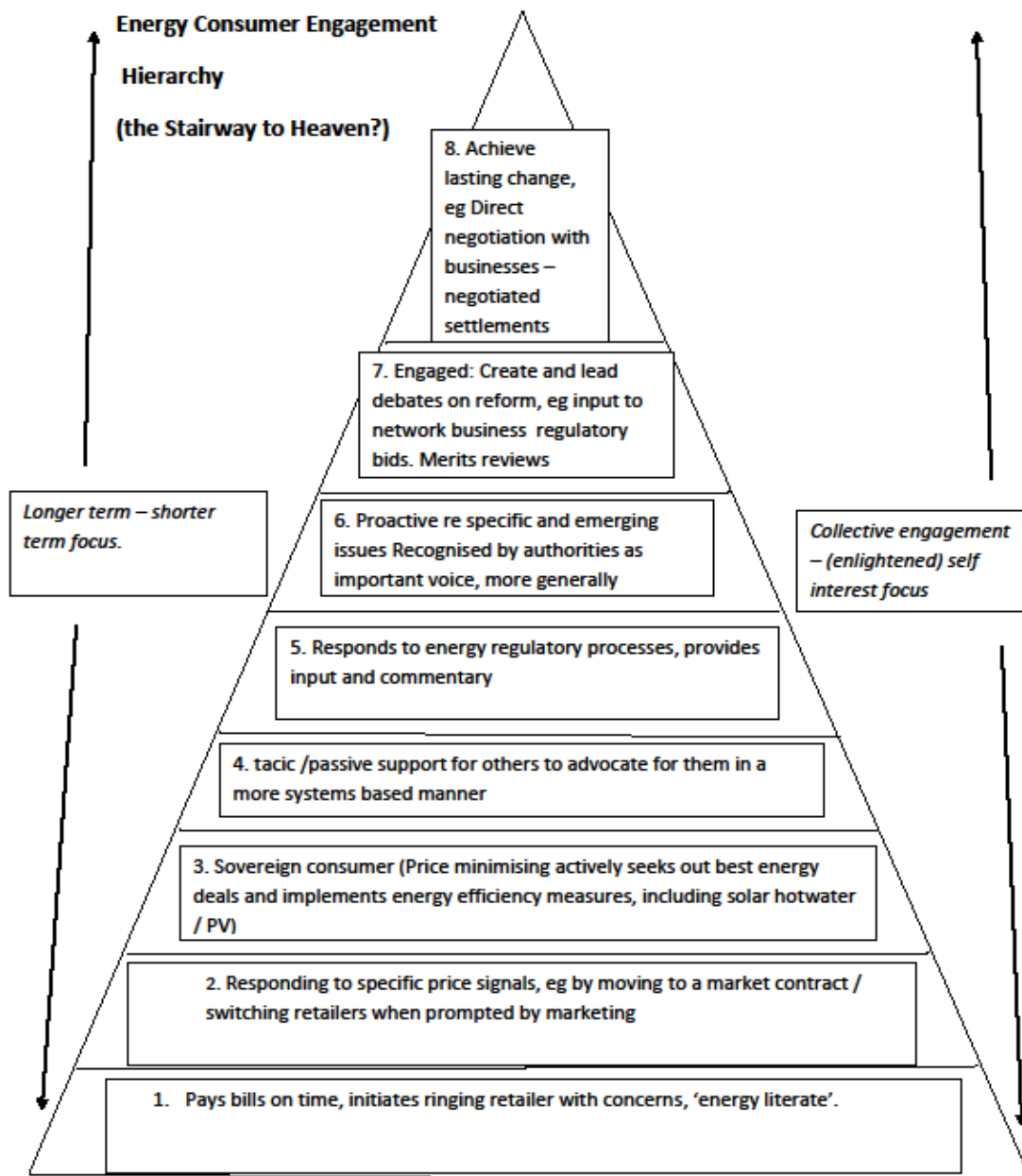
Our summary formula for better consumer engagement is:

Great Consumer Engagement = (0.9 x sincerity) + (0.1 x coffee)

(though Bess Clark General Manager Strategy and Stakeholder Relations with TasNetworks says: “I think you may have underestimated the value of coffee!!”)

Attachment

Consumer Engagement Hierarchy showing differing focus options and trade-offs between engaging individual consumers and organisations representing consumer interests.



6. Emerging Better Practice

Based on the discussion in the preceding sections, Uniting Communities suggest four approaches that we consider to be current good/better practice by utility networks regarding consumer engagement in Australia, with a supplementary that may be emerging. In doing so there is an emphasis that very good consumer engagement recognises the heterogeneity of consumers and so employs a range of approaches to receive a diversity of customer perspectives. No single approach to consumer engagement will ever be ‘the answer’, but the following approaches move the instigating network business towards aspects of the DNA approach that we have promoted. Uniting Communities summarise the 5 models as:

1. Front loaded
 2. Deliberative forum
 3. Deep dive
 4. Full deliberation
 5. Customer forum
- Supplementary approach

1. Front Loaded

This process centres on the network business releasing a draft (preliminary) revenue proposal at least 4 (preferable 6) months prior to lodgement with the AER in order to receive feedback and comment from stakeholders. The advice is taken into account and reflected in the final regulatory proposal that is lodged. The early release of the pre-lodgement proposal also provides scope for ‘deep dive’ consideration of key aspects of the revenue proposal.

The early release means that substantial consumer and stakeholder engagement needs to have occurred before its release, in order to inform the draft proposal. The lodgement of a revenue proposal that has been seen and actively considered by consumer and stakeholder interests, ideally including the regulator, means that there should be ‘no surprises’ for anyone involved once the proposal is formally lodged.

Under the prevailing approach to network regulation, the main period of scrutiny of the network business’s proposal is after lodgement and in response to the preliminary decision. The approach summarised is referred to as ‘front loaded’, because the main period of engagement and debate is before the regulatory proposal is lodged, up to a year earlier than with prevailing timing. The front loaded approach is likely to be more time and cost efficient because agreed changes can be made quickly, because there is no formal process to work through pre-lodgement. Effective discussion and

negotiation based on the draft proposal can mean there is very little change to the regulatory proposal, by the regulator, once the proposal is lodged, as the main issues have already been resolved.

Note: Uniting Communities observe this sort of process is emerging strongly in Australian energy networks approaches towards consumer engagement with different terms being used. Uniting Communities understand the emerging language is ‘front loaded’, though over the past year Uniting Communities have used terms including “early reveal” and “draft proposal”, all meaning the same basic approach and hopefully for the sake of common language it should be termed ‘front loaded’

Relevance to DNA approach.

Application of this process requires meaningful **negotiation** between the network business and consumers both before and after the release of the draft proposal. While there is no formal **agreement** documented under current approaches, this is possible in the future. In practice, the process of discussion about the draft proposal should lead to implicit agreement for much of the proposal and clarity about areas of disagreement.

2. Deliberative forum

The deliberative forum approach has mainly utilised a market research firm to recruit 70-100 people representative of the demographic spread of a network businesses’ end customer base to attend a four-hour session, for which participants are paid an honorarium to attend. The forum is facilitated by an independent party, usually the market research company. The process used is for some input of no more than 10 minutes to be provided to the group, on an issue that is of importance to the business and participating consumers. The input leads to a specific question that participants are asked to discuss in small groups of 8-10 people, with each group facilitated. Network staff are available to answer any questions related to the operation of the business, from any of the groups. There is then some reporting back to the whole group. The process is then repeated for two other issues over the four-hour session, so that a total of three issues is considered. The process can conclude with a prioritisation exercise and most importantly, some brief reflection from a senior member of the network business staff or Board about what has been heard and advise of the follow up processes.

Note: that a real time electronic voting technology has been used in some deliberative forums, enabling a number (say 20) short questions to be asked with some interaction within the forum.

Ideally a follow up forum within three months, involving that same participants, is conducted to quickly check the thinking form of the initial forum and any changes that participants have had from subsequent thinking and discussion. Then the main focus of the second (or subsequent) forums can be on more detailed questions of mutual interest, particularly about application of some of the key

issues. Deliberative forums allow more time for participants to think and interact than a focus group type process that is usually completed in 2 hours or less.

Relevance to DNA approach.

This approach is focussed on the **deliberation** element. While not being as detailed deliberation as originally intended in the DNA approach, a forum of four or more hours can enable some high value deliberation from consumer interests in a time limited setting. The process is likely to be more valuable if a second, or additional forums are conducted, after the initial forum.

3. Deep dive

Deep dive refers to a process of at least two, and potentially more intensive discussions involving the same people representing key stakeholder interests and focusing on a specific question or issue which is either reasonably complex or contentious. Each deep dive session is normally about half a day. Deep dive has some common elements with what Uniting Communities has referred to as full deliberative process. However, the main difference is a much smaller group of people involved in a deep dive have considerable expertise in the specific topic being considered. In addition the participants representing a key stakeholder must include a consumer perspective and of course relevant network business staff. Participants in a deep dive process will all have the same information provided to them which will include issues and relevant background from the network business, as well as consultant or expert reports, and other relevant informational reports identified by any member of the deep dive group.

The deep dive group will be appointed and supported by the network business ideally with a broader group e.g. a stakeholder reference group or similar, endorsing the participants to the process. Normally the deep dive will occur over two or more sessions to enable time for all participants to fully understand the issues at hand, including data or technical information and to allow time for thinking on deliberation between and during subsequent sessions.

Ideally the outcome of the process will be an agreement which can be reported back to relevant decision-makers within the network business, the consumer reference group to the business and any other relevant stakeholder group. The agreement and/or documentation of debates and points of difference from a deep dive should be included in the network’s regulatory proposal.

Relevance to DNA approach.

The focus of a deep dive process is to enable **negotiation** on a specific question that is complex or contentious, with the objective of reaching **agreement**, although this is not necessary for a successful

deep dive process. Deep dive is also a form of deliberative process but with participants being people with relevant expertise and from specific stakeholder interests.

4. Full deliberation

Deliberation is any process of public engagement and participation in decision making that focuses on gathering representative views from the community and encouraging their reflection and debate, leading to recommendations for action. The central participants are not organised interests, but people from the community affected by the decision under consideration.

Citizens’ jury type processes are an example of a full deliberation model. This approach features random selection of energy consumers, just as 12 citizens are randomly selected to join a ‘jury’ considering a criminal case. A prevailing view⁶ is that good citizens jury process will require about 40 hours for each participant over five to six separate gathering times. The deliberators are given a specific question to answer or provide advice on and receive information from all relevant stakeholders, but deliberate alone, over time, normally three to six months.

The deliberating panel is assisted by an independent facilitator on process matters and reports back to the initiating body at the end of the process with findings and advice. The expectation is that a consensus report is provided, though this is not always the case.

Relevance to DNA approach.

The full deliberation approach is specifically focussed and the intent of fulfilling the **deliberation** in the DNA approach.

For energy processes this type of deliberative process enables customers who are representative of broader consumer perspective to consider complex and detailed questions and provide clear advice.

Each of these four processes has been meaningfully and effectively applied by at least one energy network businesses in Australia over the past 18 months. Uniting Communities suggest that each of these four approaches is directly relevant to the DNA approach flagged by Uniting Communities two years ago. Uniting Communities look forward to these and other approaches being developed and applied across a range of different settings throughout Australia overcoming months and years.

Supplementary process

Uniting Communities suggest a formal Customer Forum process refined to date by the Scottish Water model is also emerging for some network businesses in Australia. Uniting Communities call this model

⁶ <https://www.newdemocracy.com.au/library/what-is-a-citizens-jury>

the Customer Forum approach since it is the same language used by Scottish Water, relevant consumer bodies and the Water Industry Commission Scotland (the regulator).

5. Customer forum

The Customer Forum has nine members; with five members being independent who would be persons with “strong customer-focussed reputation”; two members would represent the retailers; and the remaining member from the relevant chamber of commerce and industry. Together with Scottish Water, the Customer Forum devises a business plan, seeks ongoing consumer input through many processes and a range of organisations, particularly Citizens Advice Scotland. They are required to present a written statement of agreement to the regulator when a new regulatory proposal is lodged. One of the salient aspects of the Consumer Forum is that its ability to bring together the representatives of a wide-range of organisations, including licensed retailers, to ensure that both household and business customers get the value for their money.

We are observing some energy network businesses in Australia as wanting to utilise their customer reference group/consultation group/advisory group (the language changes) to endorse the businesses regarded to proposal. Uniting Communities have not seen this documented formally but are observing a sense of moving towards this direction. In doing so it is noted that no business in Australia has established anything as formal or with a defined planning and negotiating role as the Scottish water Customer Forum.

Note: some commentators erroneously believe that the Customer Forum is intended to represent customers, this is not the case. Its role is to represent a customer perspective. This difference in understanding is important.

Relevance to DNA approach.

Given that the specific objective of the Scottish Water Customer Forum includes developing some sort of written note of areas of **agreement** with the Scottish water regulatory proposal, this process clearly has very strong elements of both **negotiation** and **agreement** with consumer perspective, and so the potential to add considerable value to consumer engagement processes.

7. Observations

This section considers a couple of the ‘big’ questions that have emerged in discussions about this project.

1. Are there limits to empowering consumers?

The IAP2 spectrum of public participation (‘public participation’ is regarded as a synonym for ‘consumer engagement’ in this paper) gives empowerment of consumers as the highest level of impact. The much used spectrum is given as:⁷

IAP2’S PUBLIC PARTICIPATION SPECTRUM



The IAP2 Federation has developed the Spectrum to help groups define the public’s role in any public participation process. The IAP2 Spectrum is quickly becoming an international standard.

| | | INCREASING IMPACT ON THE DECISION | | | | |
|---------------------------|-----------------------|--|--|---|---|--|
| | | INFORM | CONSULT | INVOLVE | COLLABORATE | EMPOWER |
| PUBLIC PARTICIPATION GOAL | | To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions. | To obtain public feedback on analysis, alternatives and/or decisions. | To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered. | To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution. | To place final decision making in the hands of the public. |
| | PROMISE TO THE PUBLIC | We will keep you informed. | We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision. | We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision. | We will look to you for advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible. | We will implement what you decide. |

© IAP2 International Federation 2014. All rights reserved.

Consumer engagement comprises a wide range of processes that can be considered to occur at all points along the IAP2 continuum, from inform to empower. The DNA approach refers to the subset of approaches to consumer engagement that both require two way interaction between consumer interests and network businesses as equals and which are focussed on reaching agreement, specifically using negotiating and deliberative techniques. As such the DNA approach is located at the right hand end of the IAP2 spectrum, processes associated with collaborate and empower aspects of

⁷ https://www.iap2.org.au/Tenant/C0000004/00000001/files/IAP2_Public_Participation_Spectrum.pdf

the spectrum. The "promises to the public" for these two aspects of the continuum and hence of relevance to the DNA approach are instructive.

For ‘collaborate’ the promise to the public, ie consumers in this instance is: “we will work together with you to formulate solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.”

While the promise to consumers for the empowerment end of the spectrum is simply “we will implement what you decide.”

These two ‘promises’ are very helpful in considering how much consumer engagement can achieve.

The better practice from energy network businesses is currently at the IAP2 spectrum level of “collaborate,” ElectraNet and AGN, for example have both documented how they have worked together with consumer interests to formulate solutions and they have documented both the consumer groups and in regulatory proposals how these solutions have been incorporated into regulatory proposals.

The question remains as to whether empowered consumers is possible, even through the most engaging approaches.

An argument against says that the energy industry is too complex for "person in the street customers" to understand or to want to engage with. This argument is fairly widely supported in the USA where consumer advocates are mainly professional "Attorneys" based in State government administration - akin to being employed in an Attorney General's Department in Australia.

The argument also surfaces in Australia with the opinions that either complexity locks out end consumers, and / or consumer disinterest.

The question then is whether network businesses can go with consumers to the power level, ie fulfil the promise of “we will implement what you decide”? Uniting Communities argues that end consumers can be empowered, and that this can be achieved at a couple of levels.

An approach that produced genuine agreement, in some documented form, would constitute empowerment, a commitment by all parties to implement what has been decided. This is not easy but as indicated earlier in this report there are examples of customers being empowered through documented agreement, a ‘minute’ between Scottish water and their customer forum being one clear example. There are many ways and means by which a document of agreement could be developed in

Australian regulatory settings, thereby demonstrating empowered customers. We just aren't there quite yet.

Customers are also empowered by an active process that enables direct, informed involvement in providing input to businesses that is utilised. Consumers are empowered when they are able to clearly see how businesses have applied the input / advice that was provided. This can occur more readily through ongoing engagement that builds trust on all sides ultimately resulting in consumer advice being implemented - empower consumers.

The answer to the question about whether energy consumers can be empowered, using the IAP2 spectrum meaning, including using 'DNA' approaches is “yes.”

2. Representative Consumers or Consumer representatives?

Can consumer advocates involved with negotiation on utility network regulatory proposals assume or maintain legitimacy from the perspective of a broader consumer base? From discussions and our own experience, 4 responses to this question are reported.

1. Don't claim to be representative

The Consumer Forum that operates in Scotland through water regulatory processes is a very interesting case in point. The Consumer Forum was established as a joint agreement between the Water Industry Commission Scotland, the regulator; Scottish Water, the state owned business and Citizens Advice Scotland, the community-based advocacy and policy organisation which is also funded to support consumer advocacy in both energy and water regulation.

There are 10 people are appointed by the three bodies including an independent chair. Interestingly the Forum is not representative of consumers but can provide their perspective on what consumers would want and also gain evidence from consumers. The group is required to negotiate with Scottish Water on their regulatory proposal because they are charged with this task through the tri-partite agreement that set up the Customer Forum. So the approach taken under the first regulatory process with which they were involved was to sign a Minute of Agreement. This has weight because the Regulator gives it weight but is never understood to be an agreement that has been agreed to by a broad-based consumers. The agreement is however understood to be reflective of broader consumer view.

Some really interesting nuance here. The Consumer Forum is not representative but because the Regulator gives its views weight, it has legitimacy. Of course that legitimacy must be continually

earned by the Customer Forum in ensuring that they undertake or are familiar with processes that engage directly with a breadth of consumer interests.

The three bodies appointing the Customer Forum have a Research Governance Group which strives to ensure that research conducted by any party is rigorous and useful for all parties. High-quality rigorous research adds to the legitimacy of Customer Forum opinion.

Representing a consumer perspective does not mean representing consumers.

2. Transparency and Governance

How consumer groups function is critical to how they are perceived, wittingly or unwittingly

For groups presenting a consumer perspective (customer forums, challenge panels, customer councils etc), transparency is the great protection. The way groups are appointed, members, declarations of potential conflicts of interest in an accessible place matter and mean that individuals have nothing to hide, and vulnerability to potential criticism is minimised.

All information provided to such groups also needs to be publicly disclosed and the nature of the information needs to be established. For example a regulator providing a paper to a challenge panel could be providing background information, an opinion that they are supportive of, or a direction.

Clearly documented governance arrangements are also crucial

3. Do the research

Justification of decisions matters and a clear evidence base makes justification of decisions made and even opinions presented, defensible. Most groups won't have to justify their decisions or input formally, but some will, so evidence base is important. Evidence base can be the perspectives gathered from colleagues from nominating organisation or broader networks too. Academic papers and commissioned research are also very useful. Groups providing consumer perspective in regulatory or policy settings should seek to have the capacity to commission their own research, preferably shared with regulator and the business which is the subject of the pending regulatory decision.

4. Multiple engagement actions needed

A crucial observation from all consumer representatives is that there can never be 'only one game in town.' While there is a broad range of consumer engagement activities going on and there is a place for any consumer to express their point of view, or grievance; including through social media, surveys, focus groups, consultative forums and public meetings, then consumer engagement can be effective

Consumer group members also need to talk with their personal networks and the networks associated with the organisation that either nominated them. In the UK, a volunteer from Red Cross would never

claim to represent a formal British Red Cross Society perspective, but very legitimately reflected the perspectives of the Branch of which they are a part and other community-based networks with whom they meet. This ongoing informal engagement has legitimacy and invariably brings a solid reality to the consumer group table.

So in summary, consumer advocates involved in high level negotiation and regulatory proposal development do not need to be representative of a broad consumer base, as long as they do not claim to be representative but do provide perspective from their own personal networks and experience then there is legitimacy.

The really important point is that no single group or process should be seen to be reflective of consumer perspective. A range of consumer engagement processes is always needed providing both breadth and depth of consumer perspective with opportunities for anybody who is interested to be involved in getting their point across some way or another, all backed up by transparency and a sound evidence base. Get these right and a consumer process is very likely to be effective

3. Resourcing Consumer Engagement

Who is resourced to seek a breadth of bill paying consumer perspective? NSPs or consumer representative groups?

Effective consumer engagement means resourcing both consumer representative groups to ensure both continuity and access to technical expertise. It is also most likely that these groups will be crucial to negotiation and agreement focused processes.

Resourcing is also critical to ensure that a diversity of consumer views is heard on key questions. In Australia so far, most of the engagement with bill paying consumers has been undertaken by network businesses directly, with results as understood by the network business invariably what is passed on to reference or consultative groups, comprising representatives of consumer focused organisations.

The Scottish water / water industry commission Scotland approach is to resource Citizens Advice Scotland to engage with a diversity of consumer interests, or Scottish water and the regulator are both able to do their own engagement as well. Or consumer engagement processes and findings are shared by Scottish water the regulator and since citizens advice Scotland the three groups have established the consumer forum. The capacity of a community focused organisation to be able to fund ‘their own’ consumer research and consumer engagement is critical to the success of the “Scottish water model.” The Consumer Forum has an annual budget of £175,000.

Consideration needs to be given in Australia to resourcing for a range of consumer listing and consumer engagement activities to be undertaken above and beyond that it is undertaken by network businesses.

For effective, ongoing consumer engagement resourcing is required to both for Advocates to engage on behalf of consumer perspectives and to people assist key areas of citizen perspective to be involved in consultation / engagement.

The establishment of Energy Consumers Australia means that they will have very important roles, both in funding engagement through their grants program as well as

Four broad models are emerging that could be used to resource consumers in consumer engagement processes over 24 energy network businesses across Australia, every five years. Engagement with Water regulation could be linked to resourcing too. The four models being, in broad terms:

1. Business as usual.

Under this model, pretty much existing arrangements stay in place. Some ECA staff along with advocates from other bodies engage with network businesses on a bilateral, reset by reset basis.

This approach probably assumes a relatively ad hoc engagement by network businesses with the consumer groups that are able and willing to be involved at the time regulatory proposals are being developed. I suggest a relatively superficial level of engagement in general, although in some instances there has been some capacity for engagement on some specific matters of greater detail, over the past couple of years. The approach has limited capacity for negotiation and agreement with consumers / consumer representatives.

2. State funded, State employed utility consumer advocates.

Under this model, a utility consumer advocate’s team is appointed by State / Territory government, to engage in energy, and probably water regulatory processes, on behalf of consumers

This is very much United States model where jurisdictions take responsibility for ensuring that consumer interests are represented in regulatory processes, through employing a team of Attorneys – a consumer focussed legal team in the equivalent of an Attorney General’s Department. (In the US, these utility consumer advocate units come together as NASUCA – the National Association of State Utility Consumer Advocates. Their National Conference is held parallel to the national Regulators conference, with some shared sessions.)

This approach has better chances of direct negotiation and some agreement between networks and consumers.

3. Jurisdiction focussed, NGO utility consumer advocacy and negotiating group.

Under this model, a small independent staff team would be gathered on a permanent basis to actively engage on behalf of consumer interests in electricity and gas network regulation and network businesses reset processes.

While a range of models exist that would meet this broad characterisation, the approach of particular interest to me is the consumer Forum that operates in Scotland through water regular trip processes. The consumer Forum is established as a joint agreement between the water industry commission Scotland, the regulator; Scottish water, the state owned business and citizens advice Scotland, the community-based advocacy and policy organisation is also funded to support consumer advocacy in both energy and water regulation.

10 people are appointed by the three bodies including an independent chair. Interestingly the forum is not representative of consumers but can provide their perspective on what consumers would want and also gain evidence from consumers. The group is able to negotiate with Scottish Water on their regulatory proposal because they are charged with this task by agreement between the three establishing organisations. The approach taken under the first regulatory process with which they are involved was to sign a minute of agreement. This statement / agreement has significance because the regulator gives it ‘weight’ but is never understood to be an agreement that has been agreed to by a broad-based consumers. It is however understood to be reflective of a broad consumer view.

The three bodies appointing the customer forum form a research governance group which strives to ensure that research conducted by any party is rigorous and useful for all parties. High-quality rigorous research adds to the legitimacy of customer forum deliberation.

In Australia, a group like this may become involved in water regulation as well and would need to have some core funding from State / Territory governments with an expectation of national funding as well, potentially through ECA, maybe with a bigger funding pool from which to allocate?

This model certainly has good capacity of direct negotiation and agreement between networks and consumers.

4. Nationally driven energy regulation

Under this model, most consumer focused energy network engagement and regulatory activity is managed at national level, potentially by ECA. There would continue to be some engagement by consumer advocates with funding through ECA projects and potentially some other sources.

Under this model, it is likely that there is movement to some aspects of network regulation being centralised at a national level, this is being considered for example for return on capital during 2017-18, were a single AER conducted processes would apply to all network business regulatory proposals. The individual network proposal is then being focused on operating costs, capital expenditure and incentives arrangements.

This approach is more like the UK approach, however in the UK, network regulation now occurs for eight year periods (with a mid-term review) and there are effectively three different processes, electricity transmission electricity, distribution and gas. With all businesses in electricity distribution, for example, being considered at the same time. A more national consumer engagement approach makes more sense under these circumstances. A more national approach should help with consideration of new and emerging market issues.

There is good potential under this model for negotiation and agreements between networks and consumers, though I suspect less than for option 3.

5. Hybrid models

The fifth option of the four models is for any of a number of hybrid approaches particularly hybrids of models three and four.

8. Next Steps

Are we there yet?

There is a range of aspects of consumer engagement that need to be considered before any assessment of progress in consumer engagement can be made:

- a. Empowerment, in the IAP2 sense
- b. Responding to customers, in a manner akin to what competitive businesses would be required to do in order to stay in business,
- c. Consumer protection, particularly against rogue elements of industry, which are particularly relevant during times of transition and uncertainty.

Uniting Communities has proposed that the benefits of consumer engagement can be achieved through actively seeking agreement on all aspects of a regulatory process, and that agreement is significantly informed by negotiation and for more complex issues, through deliberative processes.

We suggest that ultimate success will be achieved when network regulatory proposals are lodged with a statement of agreement between the network business and a group or groups who can be reasonably understood to represent a diversity of consumer concerns and perspective. Further that where agreement has been reached and taken into account by the regulator, there is no subsequent appeal or legal challenge by the network business.

Recognising that significant progress that has been made over the last 2-3 years, it is reasonable to ask if the intended results of consumer engagement, including utilising a DNA approach have been achieved.

Given the success measure of some form of documented agreement, the end point has not yet been reached, however Uniting Communities asserts that it is within reach.

The next stage of developing consumer engagement, with consumers at the centre, is to build on the very constructive approaches to consumer engagement that have emerged over recent years, and to move these processes, and others to identify forms of documented agreement.

To achieve this there will need to be:

1. further development of models to achieve agreement, including piloting approaches
2. communication from the regulator about how they would both consider a documented agreement and the treatment they would give it through the existing regulatory process
3. ongoing development of consumer engagement approaches by network businesses
4. development of an understanding of negotiation processes by consumer advocacy organisations
5. skills and capacity for consumer advocates, consumer representatives and select consumers to be able to actively and effectively engage with network businesses and the regulator with a view to achieving robust agreements
6. Development of ‘metrics’ to regularly assess the quality of consumer engagement by network businesses

We also suggest that there are specific actions that each of the three major stakeholders can be working on in collaboratively developing consumer centred network regulatory practice.

Network businesses

Building trust with consumers and consumer organisations continues to be a priority for network businesses, there is no particular formula from achieving this but some of the steps will include:

- Trialling different approaches to consumer engagement and evaluating them transparently. Note the processes that don’t necessarily work can still afford significant shared learning
- Further developing the business case for better consumer engagement, ensuring the boards and senior management are supportive and take responsibility to engage with consumer interests themselves.

- Actively consider the desired ‘end game’ of consumer engagement, is it the promise to the public from the IAP2 empowerment strategy, namely “we will implement what you decide.”
- Be clear and transparent about bottom line is and any ‘non-negotiables’
- Develop measures of successful consumer engagement and publish these, including initial attempts.
- Seek common ground with the regulator as well as consumer interests
- Ensure the consumer engagement is ongoing.
- Talk with retailers and wholesalers about the genuine concerns that many households and small businesses have about ever rising prices. Let the public know that the cost pressures are understood.

Regulator

On 26th July, AER Chair, Paula Conboy, said the Energy Networks Association Conference:

We want to engage with you and with consumers earlier in the process. We want to identify key points of disagreement early and we want to work collaboratively to resolve them. In my experience, the sooner you can all agree on the issues of a proposal, the areas of contention, the easier it is to resolve them.

- It is crucial that the AER builds on this commitment to engage with network businesses and also with consumers.
- The regulator can also give clear advice about the outcomes it is seeking from consumer engagement by network businesses.
- In addition of the regulator can identify to networks as well as consumer interests of the roles it is willing to play in exploring new models and particularly in trialling them. The emerging practice around ‘frontloaded’ approaches seems to be a good starting point.
- Active consideration can also be given to metrics to measure consumer engagement effectiveness and to move to a situation where reporting on consumer engagement is expected, or required on an annual basis.

Consumer Groups

While intuition may be that consumers and consumer groups have most to gain from increased consumer engagement, they may well have most to lose as well and remain the most vulnerable, through limited resourcing. The challenges for consumer groups in particular include:

- Seeking agreement across consumer groups about the extent to which consumer engagement can achieve better outcomes for bill paying consumers.
- Clarity about this sort of models and approaches that are preferred, and the reasons why.
- Learning to trust and to take measured risk in seeking more collaborative working relationships with network businesses in particular, and the regulator is well. Developing and maintaining the skill sets and continuity for ongoing engagement with network businesses, across the country
- Demonstrating the sort of practice that we are looking for from network businesses.

Next steps for Uniting Communities

There are a number of desired next steps following on from this report, including:

- Revising it updating this report, in particular to use it to gain feedback and response from other community organisations, consumer interests, network businesses and the regulator.
- Document the year benefits to networks as well as consumer groups from better consumer engagement
- Conduct forum or forums with network businesses to provide skills in a wide range of consumer engagement which are used within the community services sector
- Workshop this report with peers from community and energy advocacy organisations
- Participate in emerging processes to explore better consumer engagement including the recently announced ECA, ENA, AER consumer engagement pilot project.
- Continue to be involved with consumer engagement processes with South Australian-based network businesses.

Key References

“RETHINKING UTILITY REGULATION IN AUSTRALIA”, Monash Business Policy Forum by Joe Dimasi with assistance from Peter Lambert. Stephen King and Rodney Maddock.

“A summary of evidence and thinking on negotiated settlements in the regulation of energy network service providers.” Bruce Mountain 2013

“The potential scope for negotiated settlements in the regulation of electricity and gas networks in Australia”. Bruce Mountain

“Electricity Network Transformation Roadmap.” CSIRO and Energy Networks Australia and CSIRO

“Constructive Engagement and Negotiated Settlements – a Prospect in the England and Wales Water Sector?” Stephen Littlechild, 2012.

“Negotiated Settlement and Consumer Engagement, UK Experience and lessons for Australia.” David Havyatt 2016

Scottish Water References

Littlechild, Stephen (2014) ‘The Customer Forum: Customer engagement in the Scottish water Sector’, *Utilities Policy: Governance, Performance, Analysis*

Littlechild, Stephen (2014), ‘The Customer Forum: customer engagement in the Scottish water sector’, *Studies in Regulation, A New Series*, published by the Regulatory Policy Institute, Oxford, UK

Hendry, Sarah (2016) ‘Scottish Water: a public-sector success story’, *Water International*, 41:6, 900-915, DOI: 10.1080/02508060.2016.1212961

Byatt, Ian (2012) ‘The regulation of water services in the UK’, *Utilities Policy: Governance, Performance, Analysis*,

Southern Water, ‘Water 2020: Customer engagement: lessons and opportunities

Heims, Eva and Lodge, Martin (2016) ‘Innovation through customer engagement and negotiated settlements in water regulation: Towards a transformed regulatory state?’ Discussion Paper (NO: 83), London School of Economics

Yorkshire Water (2015), Issues Paper: Customer Engagement, Insight and Service

Independent Review of Competition and Innovation in Water Markets: Final report (2009), Professor Martin Cave, Department for Environment, Food & Rural Affairs, Government of the UK, London

Citizens Advice: Consumer champion The Citizens Advice and Citizens Advice Scotland work plan for 2016/17, Citizens Advice and Citizens Advice Scotland

Mountain, Bruce (2015) ‘Consumer engagement: International developments and ideas for water regulation in Victoria’, *Carbon + Energy Markets*

The Customer Forum for Water in Scotland (2015) ‘Legacy report: Lessons learned from customer involvement in the 2015-2021, Strategic Review of Charges’, Customer Forum

The Commission on Local Tax Reform (2015), ‘Just Change: A New Approach to Local Taxation’
Vol. 1

Audit Scotland (2005) Overview of the water industry in Scotland: Prepared for the Auditor General
for Scotland

Citizens Advice Scotland (2015) ‘Sink or Swim: Consumer experiences of water and sewerage debt’

UN Water Report, ‘Water Issues: Contributing to the Success of the eighteenth and nineteenth
sessions of the Commission on Sustainable Development’

Water Industry Commission for Scotland: Review of performance and strategy

Involve Scotland, January 2013

Also Useful

“A Study of the Negotiated-Settlement Practice in Regulation: Some Evidence from Florida.” Shourjo
Chakravorty (University of Florida), 2014.

“Processes for stakeholder negotiation for electricity network regulation.” Michael B. Cunningham
(ESCV). 2012

“The Customer Forum: customer engagement in the Scottish water sector.” Stephen Littlechild, 2014

Heathrow regulation

Heathrow regulation, CAA (UK) website

<https://www.caa.co.uk/Commercial-industry/Airports/Economic-regulation/Licensing-and-price-control/Approach-to-economic-regulation-of-new-capacity/>

“Heathrow’s response to the CAA’s draft policy statement on the economic regulation of new
capacity.” 2014

<https://www.caa.co.uk/WorkArea/DownloadAsset.aspx?id=4294974423>

*NB “We believe that there are many different ways in which this could work, including designs that
would give strong incentives for the parties to reach an agreement. We do not consider this
consultation response is the correct place for these ideas to be developed; but we would welcome the
opportunity to discuss options – beyond the existing Constructive Engagement (CE) scheme - with the
CAA for how these negotiations might be constructed. Given the scale of the potential benefits of
negotiated agreements, we believe that the CAA should look into this further.” Page 8*

Contact

Mark Henley; 0404 067 011;

MarkH@unitingcommunities.org